THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — OF THE UNITED STATES — 1934

FEDERAL REGISTER

VOLUME 16 NUMBER 113

Washington, Tuesday, June 12, 1951

TITLE 3—THE PRESIDENT

PROCLAMATION 2930

FLAG DAY, 1951

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Congress, by a joint resolution approved on August 3, 1949 (63 Stat. 492), has set aside June 14 of each year as Flag Day, in commemoration of the adoption of the flag of the United States by the Continental Congress on June 14, 1777; and

WHEREAS this emblem has always stood for freedom and independence; and

WHEREAS these blessings were won by the American people, and have been preserved for a century and three-quarters, by courage, faith, and vigilance; and

WHEREAS in the Far East the American flag, together with that of the United Nations, is now flying alongside the flags of other countries in the same enduring struggle for freedom and independence:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby direct that the flag of the United States be displayed on all Government buildings on Flag Day, Thursday, June 14, 1951, and I call upon the people to observe that day with special patriotic ceremonies designed to give expression to our reverence for the flag and the ideals it symbolizes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this seventh day of June in the year of our Lord nineteen hundred and [SEAL] fifty-one, and of the Independence of the United States of America the one hundred and seventy-fifth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Secretary of State.

[F. R. Doc. 51-6828; Filed, June 8, 1951; 1:50 p. m.]

EXECUTIVE ORDER 10252

ATTACHING THE CANAL ZONE TO THE INTERNAL REVENUE COLLECTION DISTRICT OF FLORIDA

By virtue of the authority vested in me by section 3650 (a) of the Internal Revenue Code, it is ordered that the Canal Zone be, and it is hereby, attached to and made a part of the Internal Revenue Collection District of Florida for all purposes authorized by the internal revenue laws of the United States.

This order shall be effective as of January 1, 1951.

HARRY S. TRUMAN

THE WHITE HOUSE,
June 9, 1951.

[F. R. Doc. 51-6867; Filed, June 11, 1951; 10:22 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[1026 (Fire, Air, and Sun-51)-1]

PART 726—FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO MARKETING QUOTA REGULATIONS, 1951-52 MARKETING YEAR

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FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Sec.

AUTHORITY: §§ 726.230 to 726.260 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375. Interpret or apply 52 Stat. 38, 47, 48, 65, 66, as amended; 7 U. S. C. 1301, 1313, 1314, 1372, 1373, 1374, 1375.

GENERAL

§ 726.230 *Basis and purpose.* Sections 726.230 to 726.260 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the issuance of marketing cards, the identification of tobacco, the collection and refund of penalties, and the records and reports incident thereto on the marketing of fire-cured, dark air-cured, and Virginia sun-cured tobacco during the 1951–52 marketing year. Prior to preparing §§ 726.230 to 726.260, public notice (16 F. R. 3588) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to §§ 726.230 to 726.260 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 726.231 *Definitions.* As used in §§ 726.230 to 726.260, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1951, which has not been marketed or which has not been disposed of under § 726.243.

(c) Committee: (1) "Community committee" means the group of persons elected within a community as the community committee of the Production and Marketing Administration to assist in administering the Production and Marketing Administration programs within the community.

(2) "County committee" means the group of persons elected within a county as the county committee of the Production and Marketing Administration to assist in administering the Production and Marketing Administration programs within the county.

(3) "State committee" means the group of persons designated as the State committee of the Production and Marketing Administration, charged with the responsibility of administering Production and Marketing Administration programs within the State.

(d) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue.

(e) "Director" means Director or Acting Director, Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture.

(f) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with work stock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(g) "Field assistant" means any duly authorized employee of the United States Department of Agriculture, and any duly authorized employee of a county committee whose duties involve the preparation and handling of records and reports pertaining to tobacco marketing quotas.

(h) "Floor sweepings" means scraps, leaves, or bundles of tobacco, generally of inferior quality, which accumulate on the warehouse floor and which not being subject to identification with any particular lot of tobacco are gathered up by the warehousemen for sale. Floor sweepings shall not include tobacco defined as "pick-ups."

(i) "Leaf account tobacco" means all tobacco purchased by or for a warehouseman and "leaf account" shall include the records required to be kept and copies of the reports required to be made under §§ 726.230 to 726.260 relating to tobacco purchased by or for a warehouseman and resales of such tobacco.

(j) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(k) "Nonwarehouse sale" means any first marketing of farm tobacco other than by sale at public auction through a warehouse in the regular course of business.

(l) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(m) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(n) "Pick-ups" means (1) any tobacco sorted and reclaimed from leaves or bundles which have fallen to the warehouse floor in the usual course of business, or (2) any tobacco previously purchased at auction but not delivered to the buyer because of rejection by the buyer, lost ticket, or any other reason, and which is not turned back to a dealer

other than the warehouseman and shall include tobacco delivered to the buyer but returned by the buyer to the warehouseman, and which is not turned back to a dealer other than the warehouseman.

(o) "Producer" means a person who, as owner, landlord, tenant, share cropper, or laborer is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(p) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(q) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which had been marketed previously.

(r) "Sale day" means the period at the end of which the warehouseman bills to buyers the tobacco so purchased during such period.

(s) "Secretary" means the Secretary or Acting Secretary of Agriculture of the United States.

(t) "Suspended sale" means any first marketing of farm tobacco at a warehouse sale for which a memorandum of sale is not issued by the end of the sale day on which such marketing occurred.

(u) "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified, as classified in Service and Regulatory Announcements No. 118 (7 CFR 30.4 and 30.5) of the Bureau of Agricultural Economics of the United States Department of Agriculture:

Fire-cured tobacco, comprising types 21, 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths as either fire-cured, dark air-cured or Virginia sun-cured tobacco shall be considered respectively, either fire-cured, dark air-cured, or Virginia sun-cured tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(v) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1951 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 726.243.

(w) "Tobacco subject to marketing quotas" means any fire-cured, dark air-cured, or Virginia sun-cured tobacco marketed during the period October 1, 1951, to September 30, 1952, inclusive, and any fire-cured, dark air-cured, or Virginia sun-cured tobacco produced in the calendar year 1951 and marketed prior to October 1, 1951.

(x) "Trucker" means a person who engages to any extent in the business of trucking tobacco to market and selling it for producers regardless of whether the tobacco is acquired from producers by the trucker.

(y) "Warehouseman" means a person who engages to any extent in the business of holding sales of tobacco at public auction at a warehouse.

(z) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets of tobacco marketed in sequence at a given time.

§ 726.232 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary and shall cause to be prepared such instructions as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Assistant Administrator for Production, Production and Marketing Administration.

§ 726.233 *Extent of calculations and rule of fractions.* (a) The acreage of tobacco harvested on a farm in 1951 shall be expressed in tenths and fractions of less than one-tenth acre shall be dropped. For example, 4.56 acres would be 4.5 acres.

(b) The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents and 0.068 cent per pound would be 0.06 cent.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 726.234 *Amount of farm marketing quota.* (a) The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment established for the farm in accordance with §§ 726.211 to 726.229, 1023 (Fire, Air, and Sun-51)-3, Fire-cured, Dark Air-cured, and Virginia Sun-cured Tobacco Marketing Quota Regulations, 1951-52 Marketing Year, as amended (15 F. R. 5374, 16 F. R. 3886). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1951 times the farm acreage allotment.

(b) The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1951 times the number of acres harvested in excess of the farm acreage allotment, plus (2) any excess carry-over tobacco. The acreage of tobacco determined for a farm for the purpose of issuing the correct marketing card for the farm as provided in § 726.236 shall be considered the harvested acreage for the farm unless the farm operator furnishes proof satisfactory to the county committee that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage harvested will be disposed of other than by marketing.

§ 726.235 *No transfers.* There shall be no transfer of farm marketing quotas.

§ 726.236 *Issuance of marketing cards.* A marketing card shall be issued for each farm having tobacco available for marketing. Subject to the approval of the county committee, two or more marketing cards may be issued for any farm. All entries on each marketing card shall be made in accordance with the instructions for issuing marketing cards. Upon the return to the office of the county committee of the marketing card after all the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county committee to have been lost, destroyed, or stolen.

(a) *Within Quota Marketing Card (MQ-76—Tobacco).* A within quota marketing card authorizing the marketing without penalty of the tobacco available for marketing shall be issued for a farm under the following conditions:

(1) If the harvested acreage of tobacco in 1951 is not in excess of the farm acreage allotment and any excess carry-over tobacco from any prior marketing year can be marketed without penalty under the provisions of § 726.242 (b).

(2) If all excess tobacco produced on the farm is disposed of in accordance with § 726.243 (b), or

(3) If the tobacco was grown for experimental purposes on land owned or leased by a publicly owned agricultural experiment station and is produced at public expense by employees of the experiment station, or if the tobacco was produced by farmers pursuant to an agreement with a publicly owned experiment station whereby the experiment station bears the costs and risks incident to the production of the tobacco and the proceeds from the crop inure to the benefit of the experiment station: *Provided*, That such agreement is approved by the State committee prior to the issuance of a marketing card for the farm.

(b) *Excess Marketing Card (MQ-77—Tobacco).* An excess marketing card showing the extent to which marketings of tobacco from a farm are subject to penalty shall be issued unless a within quota card is required to be issued for the farm under paragraph (a) of this section, except that if the farm operator fails to disclose or otherwise furnish, or prevents the county committee from obtaining any information necessary to the issuance of the correct marketing card, an excess marketing card shall be issued showing that all tobacco from the farm is subject to the rate of penalty set forth in § 726.245.

§ 726.237 *Person authorized to issue marketing cards.* The county committee shall designate one person to sign

marketing cards for farms in the county as issuing officer. The issuing officer may, subject to the approval of the county committee, designate not more than three persons to sign his name in issuing marketing cards: *Provided*, That each such person shall place his initials immediately beneath the name of the issuing officer as written by him on the card.

§ 726.238 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card issued for the farm for marketing his proportionate share.

§ 726.239 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 726.240 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration, or incorrect entry which cannot be corrected by a field assistant), the farm operator, or the person having the card in his possession, shall return it to the office of the county committee at which it was issued.

(c) If an entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by a field assistant, then such card shall become valid.

§ 726.241 *Report of misuse of marketing card.* Any information which causes a field assistant, a member of a State, county, or community committee, or an employee of a State or county committee, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the county or State committee.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 726.242 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco harvested in excess of the farm acreage allotment and not disposed of under § 726.243 by the total acreage of tobacco harvested from the farm.

(b) Marketings of tobacco from a farm having carry-over tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carry-over" acres by dividing the number of pounds of "carry-over" tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carry-over" acres by multiplying the "carry-over" acres (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the "percent excess") for the year in which the "carry-over" tobacco was produced, except that if the excess portion of the carry-over tobacco is disposed of under § 726.243 the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carry-over" acres (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1951 allotment and the "within quota carry-over" acres (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(6) Those persons having an interest in the carry-over tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 726.243 *Disposition of excess tobacco.* The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by either of the following methods:

(a) By storage of the excess tobacco, the tobacco so stored to be representative of the entire 1951 crop produced on the farm, and posting of a bond approved by the county committee and the State committee in the penal sum of twice the rate of penalty per pound set forth in § 726.245 times the quantity of excess tobacco stored. Penalty at the applicable full rate per pound on marketings of excess tobacco shall become due upon the removal from storage of the excess tobacco, except that an amount of such tobacco in storage equal to the normal production of the acreage by which the 1952 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 726.242 (b) is less than the 1952 allotment may be removed from storage and marketed penalty free.

If the 1951 harvested acreage is less than the 1951 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1951 harvested acreage plus any acreage added with respect to any excess carry-over tobacco for the farm pursuant to § 726.242 (b) is less than the 1951 allotment may be marketed penalty free.

(b) By furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

§ 726.244 *Identification of marketings.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1951 marketing card (MQ–76—Tobacco or MQ–77—Tobacco) issued for the farm on which the tobacco was produced. In addition, in the case of nonwarehouse sales, each marketing shall also be identified by an executed bill of nonwarehouse sale (reverse side of memorandum of sale).

(a) *Separate display on warehouse floor.* Any warehouseman upon whose floor more than one kind of tobacco is offered for sale at public auction shall display each such kind of tobacco separately and shall make and keep records that will insure a separate accounting of each of such kinds of tobacco sold at auction over the warehouse floor.

(b) *Memorandum of sale.* If a memorandum of sale is not executed to identify a warehouse sale of producer's tobacco by the end of the sale day on which the tobacco was marketed, the marketing shall be a suspended sale, and, unless a memorandum identifying the tobacco so marketed is executed on or before the last warehouse sale day of the marketing season or within four weeks after the date of marketing, whichever comes first, the marketing shall be identified by MQ–82—Tobacco, Sale Without Marketing Card, as a marketing of excess tobacco. The memorandum of sale or MQ–82—Tobacco shall be executed only by a field assistant or other representative of the State committee with the following exceptions:

(1) A warehouseman, or his representative, who has been authorized on MQ–78—Tobacco, may issue a memorandum of sale to identify a warehouse sale if a field assistant is not available at the warehouse when the marketing card is presented. Each memorandum of sale issued by a warehouseman to cover a warehouse sale shall be presented promptly by him to the field assistant for verification with the warehouse records.

(2) A dealer, or his authorized representative, operating a regular receiving point for tobacco who keeps records showing the information specified in § 726.252 and who has been authorized on MQ–78—Tobacco, may issue memoranda of sale covering tobacco delivered directly to such receiving point and marketed to such dealer.

The authorization on MQ–78—Tobacco to issue memoranda of sale may be withdrawn by the State committee from any warehouseman or dealer if such action is determined to be necessary in order to properly enforce the provisions of §§ 726.230 to 726.260. The authorization shall terminate upon receipt of written notice setting forth the State committee's reason therefor.

Each excess memorandum of sale issued by a field assistant shall be verified by the warehouseman or dealer (or his representative) to determine whether the amount of penalty shown to be due has been correctly computed and such warehousemen or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the memorandum of sale.

(c) *Bill of nonwarehouse sale.* Each nonwarehouse sale shall be identified by a bill of nonwarehouse sale completely executed by the buyer and the farm operator.

Each bill of nonwarehouse sale covering any marketing shall be presented to a field assistant for the issuance of a memorandum of sale and for recording in MQ–79—Tobacco.

§ 726.245 *Rate of penalty.* (a) The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be twelve (12) cents per pound in the case of fire-cured tobacco (types 21, 22, 23, and 24), nine (9) cents per pound in the case of dark air-cured tobacco (types 35 and 36), and fourteen (14) cents per pound in the case of Virginia sun-cured tobacco (type 37).

(b) With respect to tobacco marketed from farms having excess tobacco available for marketing, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm quota is of the total amount of tobacco available for marketing from the farm.

§ 726.246 *Persons to pay penalty.* The person to pay the penalty due on the marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* The penalty due on tobacco purchased directly from a producer other than at public auction through a warehouse shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings through an agent.* The penalty due on marketings by a producer through an agent who is not a warehouseman shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(d) *Marketings outside United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 726.247 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Warehouse sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid memorandum of sale on or before the last warehouse sale day of the marketing season or within four weeks following the date of marketing, whichever comes first, shall be identified by a MQ–82—Tobacco and shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonwarehouse sale.* Any nonwarehouse sale which (1) is not identified by a valid bill of nonwarehouse sale (reverse side of memorandum of sale) and (2) is not also identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the date of purchase, or if purchased prior to the opening of the local auction markets, is not identified by a valid memorandum of sale and recorded in MQ–79—Tobacco within one week following the first sale day of the local auction markets, shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing by a warehouseman which such warehouseman represents to be a leaf account resale, but which when added to prior leaf account resales, as reported under §§ 726.230 to 726.260, is in excess of prior leaf account purchases shall be deemed to be a marketing of excess tobacco unless and until such warehouseman furnishes proof acceptable to the Director or State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco by a dealer which such dealer represents to be a resale but which when added to prior resales by such dealer is in excess of the total of his prior purchases as reported on MQ–79—Tobacco shall be deemed to be a marketing of excess tobacco unless and until such dealer furnishes proof acceptable to the Director or State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Marketings not reported.* Any resale of tobacco which under §§ 726.230 to 726.260 is required to be reported by a warehouseman or dealer but which is not so reported within the time and in the manner required by §§ 726.230 to 726.260 shall be deemed to be a marketing of excess tobacco unless and until such warehouseman or dealer furnishes a report of such resale which is acceptable to the Director or State committee. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Producer marketings.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1951 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm. The penalty thereon shall be paid by the producer.

§ 726.248 *Payment of penalty.* (a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 726.243 (a), and shall be paid by remitting the amount thereof to the State committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) If the penalty due on any warehouse sale of tobacco by a producer as determined under §§ 726.230 to 726.260 is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through an auction warehouse.

(c) Nonwarehouse sales shall be subject to the converted rate of penalty for the farm on which the tobacco was produced without regard to the net proceeds of the sale.

§ 726.249 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm, and any other person who bore the burden of the payment of any penalty, may request the return of the amount of such penalty which is in excess of the amount required under §§ 726.230 to 726.260 to be paid. Such request shall be filed with the county committee within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 726.250 *Producer's records and reports*—(a) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1951 shall return to the office of the county committee each marking card issued for the farm whenever marketings from the farm are completed and in no event later than thirty days after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within the time specified (after formal notification) shall constitute failure to account for disposition of tobacco marketed from the farm and in the event that a satisfactory account of such disposition is not furnished otherwise, the allotment next established for such farm shall be reduced as provided in the fire-cured, dark air-cured, and Virginia sun-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1952–53 marketing year.

(b) *Additional reports by producers.* In addition to any other reports which may be required under §§ 726.230 to 726.260, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even

though no allotment was established for the farm) shall upon written request by registered mail from the State committee and within 15 days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary a written report of the disposition made of all tobacco produced on the farm by sending the same to the State committee showing, as to the farm at the time of filing said report, (1) the number of acres of tobacco harvested, (2) the total production of tobacco, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested or the filing of a report which is found by the State Committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the fire-cured, dark air-cured, and Virginia sun-cured tobacco marketing quota regulations for determining acreage allotments and normal yields, 1952–53 marketing year.

§ 726.251 *Warehouseman's records and reports*—(a) *Record of marketing.* Each warehouseman shall keep such records as will enable him to furnish the Director or the State committee with respect to each warehouse sale of tobacco made at his warehouse the following information:

(1) The name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a sale by a producer, and in the case of a resale the name of the seller.

(2) Date of sale.

(3) Number of pounds sold.

(4) Gross sale price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and in addition with respect to each individual basket or lot of tobacco constituting the warehouse sale the following information:

(6) Name of purchaser.

(7) Number of pounds sold.

(8) Gross sale price.

Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales for the warehouse leaf account.

(iii) Resales of floor sweepings.

(iv) Resales of pick-ups, with respect to both subparagraphs (1) and (2) as defined in § 726.231(n)

Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the State committee the name of the farm operator and the approximate amount of tobacco obtained from the grading of tobacco from each farm.

In the case of resales for dealers, the name of the dealer making each resale shall be shown on the warehouse records so that the individual lots of tobacco sold by the dealer can be identified.

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each warehouse sale by a producer or the number of the warehouse bill(s) covering each such sale shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

(c) *Memorandum of sale and bill of nonwarehouse sale.* A record in the form of a valid memorandum of sale or a sale without marketing card shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through the warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no memorandum of sale shall be issued unless the bill of nonwarehouse sale on the reverse side of the memorandum is executed. Any warehouseman who obtains possession of any tobacco in the course of grading tobacco from any farm shall obtain a memorandum of sale to cover the amount of such tobacco.

(d) *Suspended sale record.* Any warehouse bills covering farm tobacco for which memoranda of sale have not been issued at the end of the sale day shall be presented to a field assistant who shall stamp such bills "Suspended," write thereon the serial number of the suspended sale, and record the bills on MQ–83—Tobacco, Field Assistant's Report: *Provided*, That if a field assistant is not available, the warehouseman may stamp such bills "Suspended" and deliver them to a field assistant when one is available.

(e) *Warehouse entries on dealer's record.* Each warehouseman shall record on MQ–79—Tobacco the total purchases and resales made by each dealer or other warehpuseman during each sale day at the warehouse, and enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to 1951 the entry on MQ–79—Tobacco shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ–79—Tobacco, Dealer's Record, showing:

(1) All purchases of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales).

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(g) *Season report of warehouse business.* Each warehouseman shall furnish the State committee not later than thirty (30) days following the last sale day of the marketing season a report on MQ–80—Tobacco, Auction Warehouse Report, showing (1) for each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased and resold on the warehouse floor; (2) the total pounds and gross amount of "loan tobacco" billed to any association; (3) the total pounds and gross amount of all leaf account tobacco purchased and resold and of all pick-ups (§ 726.231 (n) (1) or (2)), or floor sweepings sold by the warehouseman at public auction over his own warehouse floor; (4) the pounds and estimated value of all tobacco on hand at the time of filing the report and whether such tobacco represents leaf account tobacco, pick-ups (§ 726.231 (n) (1) or (2)), or floor sweepings; (5) the total pounds and gross amount of all tobacco purchased directly from farmers other than at public auction through a warehouse; and (6) the total pounds and gross amount of all purchases over other warehouse floors or from dealers other than warehousemen and all resales over other warehouse floors or to dealers other than warehousemen.

(h) *Report of penalties.* Each warehouseman shall make reports on MQ–81—Tobacco, Report of Penalties, showing for each sale of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds sold; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such sale. MQ–81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(i) *Report of resales.* Each warehouseman shall make reports on MQ–86—Tobacco, Report of Resales, showing for each resale of tobacco at auction on the warehouse floor (1) the warehouse bill number; (2) the name of the warehouse bill; (3) the name of the seller, or in the case of a resale for the warehouse whether such resale represents leaf account tobacco, pick-ups, or floor sweepings; (4) the registration number and State of the person making the resale; (5) the number of pounds sold; and (6) the gross amount for the sale. MQ–86—Tobacco shall be prepared for each sale day and forwarded to the State committee not later than the end of the calendar week following the week in which the tobacco was resold.

(j) *Additional records and reports by warehousemen.* Each warehouseman shall keep such records and furnish such reports to the State committee, in addition to the foregoing, as the Director may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 726.230 to 726.260.

§ 726.252 *Dealer's records and reports.* Each dealer, except as provided in § 726.253, shall keep the records and make the reports as provided by this section.

(a) *Report of dealer's name, address, and registration number.* Each dealer shall properly execute and the field as-

sistant shall detach and forward to the State committee "Receipt for Dealer's Record" contained in MQ–79—Tobacco which is issued to the dealer.

(b) *Record and report of purchases and resales.* Each dealer shall keep a record and make reports on MQ–79—Tobacco, Dealer's Record, showing all purchases and resales of tobacco made by or for the dealer and, in the event of resale of tobacco bought from a crop produced prior to 1951, the fact that such tobacco was bought by him and carried over from a crop produced prior to 1951.

(c) *Report of penalties.* Each dealer shall make a report on MQ–81—Tobacco, Report of Penalties, showing for each purchase of tobacco subject to penalty (1) the name of the farm operator; (2) the memorandum number; (3) the name of the county in which the farm is located; (4) the farm serial number; (5) the number of pounds purchased; (6) the applicable converted rate of penalty; and (7) the amount of penalty due on each such purchase. MQ–81—Tobacco shall be prepared for each week and forwarded together with remittance of the penalty due as shown thereon to the State committee not later than the end of the calendar week following the week in which the tobacco became subject to penalty.

(d) *Memorandum of sale and bill of nonwarehouse sale.* A bill of nonwarehouse sale and a memorandum of sale from the 1951 marketing card issued for the farm on which the tobacco was produced shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than at auction through a warehouse. No memorandum of sale shall be issued identifying such purchase unless the bill of nonwarehouse sale, on the reverse side of the memorandum of sale, has been executed.

(e) *Additional records.* Each dealer shall keep such records in addition to the foregoing as will enable him to furnish the Director of the State committee with respect to each lot of tobacco purchased by him the following information:

(1) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale; the name of the operator of the farm on which the tobacco was produced and the name of the seller in the case of a nonwarehouse sale; and the name of the seller in the case of purchases directly from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and with respect to each lot of tobacco sold by him the following information:

(6) Name of the warehouse through which the tobacco was sold in the case of a warehouse sale, and the name of the purchaser if other than a warehouse sale.

(7) Date of sale.

(8) Number of pounds sold.

(9) Gross sale price.

(10) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to 1951 the fact that such tobacco was so bought and carried over.

All reports shall be forwarded to the State committee not later than the end of the week following the calendar week covered by the reports.

§ 726.253 *Dealers exempt from regular records and reports.* Any dealer or buyer who does not purchase or otherwise acquire tobacco except (a) at warehouse sales, or (b) directly from dealers other than warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him shall not be subject to the provisions of § 726.252: *Provided, however,* That any such dealer or buyer who purchases tobacco (a) at nonwarehouse sale, or (b) from a warehouseman other than at warehouse sale shall be subject to the provisions of § 726.252 with respect to such purchases. Each such dealer or buyer shall make such reports to the Director, in addition to the foregoing, as he may find necessary to enforce §§ 726.230 to 726.260 and each dealer or buyer who is not subject to the provisions of § 726.252 shall make such reports to the Director as he may find necessary to enforce §§ 726.230 to 726.260.

§ 726.254 *Records and reports of truckers and persons redrying, prizing, or stemming tobacco.* (a) Every person engaged to any extent in the business of trucking tobacco for producers shall keep such records as will enable him to furnish the Director or State committee a report with respect to each lot of tobacco received by him showing (1) the name and address of the farm operator, (2) the date of receipt of the tobacco, (3) the number of pounds received, and (4) the place to which it was delivered.

(b) Every person engaged to any extent in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Director a report showing (1) the information required above for truckers, and in addition, (2) the purpose for which the tobacco was received, (3) the amount of advance made by him on the tobacco, and (4) the disposition of the tobacco.

Each such person shall make such reports to the Director as he may find necessary to enforce §§ 726.230 to 726.260.

§ 726.255 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any records or make any report as a warehouseman, dealer, trucker, or as a person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 726.256 *Failure to keep records or make reports.* Any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under §§ 726.230 to 726.260, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under §§ 726.230 to 726.260 within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided,* That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a tobacco warehouseman or dealer shall be given by the Director.

§ 726.257 *Examination of records and reports.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any warehouseman, dealer, trucker, or person engaged in the business of redrying, prizing, or stemming tobacco for producers shall make available for examination upon written request by the State committee or Director, such books, papers, records, accounts, cancelled checks, correspondence, contracts, documents, and memoranda as the State committee or Director has reason to believe are relevant and are within the control of such person.

§ 726.258 *Length of time records and reports to be kept.* Records required to be kept and copies of reports required to be made by any person under §§ 726.230 to 726.260 for the 1951–52 marketing year, shall be kept by him until September 30, 1954. Records shall be kept for such longer period of time as may be requested in writing by the Director or State committee.

§ 726.259 *Information confidential.* All data reported to or acquired by the Secretary pursuant to the provisions of §§ 726.230 to 726.260 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of community committees, and by all members and employees of county committees, and only such data so reported or acquired as the Assistant Administrator for Production, Production and Marketing Administration, deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

§ 726.260 *Redelegation of authority.* Any authority delegated to the State committee by §§ 726.230 to 726.260 may be redelegated by the State committee.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting re-

quirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 6th day of June 1951. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-6735; Filed, June 11, 1951; 8:46 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

ORDER AMENDING ORDER, AS AMENDED, REGULATING HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Sec.

AUTHORITY: §§ 953.0 to 953.92 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c.

§ 953.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and the findings and determinations made in connection with the issuance of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Los Angeles, California, on May 15, 1951, upon proposed amendments to the marketing agreement, as amended, and to Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in the States of California and Arizona. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of lemons grown in the States of California and Arizona in the same manner as, is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, prescribes so far as practicable, such different terms, applicable to different production areas, as are necessary to give due recognition to the differences in production and marketing of lemons grown in the States of California and Arizona; and

(4) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of such regional production area would not effectively carry out the declared policy of the act.

(b) *Additional findings.* It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that:

(1) The said order, as amended, and as hereby further amended, will provide an incentive for export sales of lemons other than to Canada;

(2) The opportunity for marketing lemons in such export markets will occur in the next 60 to 90 days, or during the summer months; and

(3) In view of the imminence of the export marketing season and the short period available for marketing, it is imperative in order to accomplish the purposes of the said order, as amended, and as hereby further amended to alleviate the existing surplus, create new markets and enhance the returns to producers that it be made effective upon publication in the FEDERAL REGISTER.

(c) *Determinations.* It is hereby determined that:

(1) The agreement amending the marketing agreement, as amended, regulating the handling of lemons grown in the States of California and Arizona, upon which the aforesaid hearing was also held, has been executed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping lemons covered by said order, as amended and as hereby further amended) who, during the period November 1, 1949, to October 31, 1950, handled not less than 80 percent of the volume of lemons covered by said order, as amended, and as hereby further amended;

(2) The issuance of this subpart, amending the aforesaid order as amended, is favored and approved by producers who, during the determined representative period (November 1, 1949, to October 31, 1950), produced for market at least two-thirds of the volume of lemons produced for market within the States of California and Arizona within the said period; and

(3) The issuance of this subpart, amending the aforesaid order as amended, is favored and approved by at least three-fourths of the producers who, during the aforesaid representative period, were engaged, within the States of California and Arizona, in the production for market of lemons grown in such states.

It is therefore ordered, That, on and after the effective date hereof, the handling of lemons grown in the States of California and Arizona shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid amended order as hereby amended as follows:

DEFINITIONS

§ 953.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States of America.

§ 953.2 *Act.* "Act" means Public Act No. 10, 73d Congress (48 Stat. 31), as amended and as reenacted and amended by the Agricultural Marketing Agree-

ment Act of 1937 (50 Stat. 246), as amended.

§ 953.3 *Person.* "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

§ 953.4 *Lemons.* "Lemons" means all varieties of lemons grown in the State of California or in the State of Arizona.

§ 953.5 *Grower and producer.* "Grower" and "producer" are synonymous and mean any person who produces lemons for market.

§ 953.6 *Handler.* "Handler" means any person (except a common carrier of lemons owned by another person), who handles lemons in fresh form.

§ 953.7 *Handle.* "Handle" means to transport, ship, sell, or in any other way to place lemons in the current of interstate commerce or commerce with Canada, or so as directly to burden, obstruct, or affect such interstate commerce or such commerce with Canada.

§ 953.8 *Carload.* "Carload" means a quantity of lemons equivalent to 406 packed boxes of lemons.

§ 953.9 *Box.* "Box" means a standard lemon box which has inside dimensions of 10 inches in depth, 13 inches in width, and 25⅝ inches in length.

§ 953.10 *Season and fiscal year.* "Season" and "fiscal year" are synonymous and mean the twelve-month period beginning on November 1 of each year and ending October 31 of the following year.

§ 953.11 *Committee.* "Committee" means the Lemon Administrative Committee established pursuant to § 953.20.

§ 953.12 *Available lemons.* "Available lemons" means all lemons available for current shipment, as determined pursuant to § 953.53.

§ 953.13 *Central marketing organization.* "Central marketing organization" means any organization which markets the lemons for more than one handler pursuant to a written contract between such organization and each such handler.

ADMINISTRATIVE BODY

§ 953.20 *Establishment and membership.* A Lemon Administrative Committee, consisting of six members, is hereby established. For each member of the committee there shall be an alternate member who shall have the same qualifications as the member.

§ 953.21 *Term of office.* The initial members and alternate members shall hold office for a term beginning on the date designated by the Secretary and ending October 31, 1942, or until their successors are selected and have qualified. Thereafter, the term of office of members and alternate members shall begin on the first day of November and continue for two years or until their successors are selected and have qualified. The Secretary may, by order issued not later than September 1 of any year, direct that the term of office of the members and alternate members then serving shall expire on October 31 following the date of such order, or as soon thereafter as their respective successors are selected and have qualified.

§ 953.22 *Nominations.* (a) Any cooperative marketing organization, or the growers affiliated therewith, as may be provided pursuant to paragraph (e) of this section, which marketed more than sixty percent of the total volume of lemons marketed in fresh form during the fiscal year which ends on the date nearest to the date on which nominations for members and alternate members of the committee are to be submitted, shall nominate not less than six growers for three members and six growers for three alternate members of the committee.

(b) All cooperative marketing organizations which are not qualified under paragraph (a) of this section, or the growers affiliated therewith, as may be provided pursuant to paragraph (e) of this section, shall nominate not less than two growers for a member and two growers for an alternate member of the committee.

(c) All lemon growers who are not included under paragraph (a) or (b) of this section shall nominate not less than two growers for a member and two growers for an alternate member of the committee.

(d) When voting for nominees, each grower shall be entitled to cast one vote, which vote shall be cast on behalf of himself, his agents, subsidiaries, affiliates, and representatives.

(e) The time, method, and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(f) Nominations for the initial members and alternate members of the committee may be made prior to, and, in any event, shall be submitted to the Secretary not later than fifteen days after, the effective date of this subpart. Nominations for successors to the initial members and alternate members of the committee shall be submitted to the Secretary not later than fifteen days preceeding the date of expiration of the terms of the members and alternate members.

(g) The five members of the committee selected by the Secretary pursuant to paragraph (a) of § 953.23, shall meet upon a date designated by the Secretary and, by a concurring vote of at least four members, shall nominate two persons for a member and two persons for an alternate member of the committee, which persons shall not be growers or handlers, or employees or agents of a grower or a handler, or in any other way associated directly with the lemon industry.

§ 953.23 *Selection.* (a) From the nominations submitted pursuant to paragraph (a) of § 953.22, the Secretary shall select three members and three alternate members of the committee. From the nominations submitted pursuant to paragraphs (b) and (c) of § 953.22, the Secretary shall select one member and one alternate member of the committee from each of the groups of nominations.

(b) From the nominations made pursuant to paragraph (g) of § 953.22, the Secretary shall select one member and one alternate member of the committee.

§ 953.24 *Failure to nominate.* In the event nominations are not made pursuant to, and within the time specified in, § 953.22, the Secretary may select the members and alternate members of the committee, without regard to nominations, which selection shall be made on the basis of the representation provided for in § 953.23.

§ 953.25 *Acceptance.* Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 953.26 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member, a successor for his unexpired term shall be selected by the Secretary from nominations made in the manner specified in § 953.22. If the names of nominees to fill any such vacancy are not made available to the Secretary within fifteen days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § 953.23.

§ 953.27 *Alternate members.* An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence, unless such member has designated another alternate member, who has been nominated by the same group which nominated the member; in which event, the alternate member so designated shall serve in the absence of the member who designated him. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 953.28 *Procedure.* (a) A majority of the committee shall constitute a quorum, and any action of the committee shall require four concurring votes.

(b) The committee may provide for voting by telegraph, telephone, or other means of communication; and any such vote so cast shall be confirmed promptly in writing.

§ 953.29 *Expenses and compensation.* The members of the committee, and their respective alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under § 953.30, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $5.00 for each day, or portion thereof, spent in attending meetings of the committee.

§ 953.30 *Powers.* The committee shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 953.31 *Duties.* It shall be the duty of the committee:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To keep minutes, books, and records which will clearly reflect all of the acts and transactions of the committee, including all transactions and operations pursuant to §§ 953.50 through 953.62. Such minutes, books, and records shall be subject to examination at any time by the Secretary;

(c) To investigate the growing, shipping, and marketing conditions with respect to lemons, and to assemble data in connection therewith;

(d) To furnish to the Secretary such available information as he may request;

(e) To select a chairman and such other officers as may be necessary, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(f) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon;

(g) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this subpart, and a copy of each such report shall be furnished to the Secretary;

(h) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the salaries and define the duties of such persons;

(i) Subject to the continuing right of the Secretary to take such other action as may be necessary, to appear in and defend any legal proceeding against the committee, its members, or alternate members (whether any such proceeding is against them as individuals or as members or alternate members of the committee), or any officers or employees of such committee, arising out of the exercise of their powers or the performance of their duties pursuant to the provisions of this subpart; and the action of the committee in connection with any such defense shall be binding upon all the members and alternate members of the committee; and

(j) To perform such duties as may be assigned to it by the Secretary in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress approved August 24, 1935 (49 Stat. 774), as amended.

§ 953.32 *Obligation.* Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records, in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this subpart.

EXPENSES AND ASSESSMENTS

§ 953.40 *Expenses.* The committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the committee pursuant to the provisions of this subpart during each fiscal year. The funds to cover such expenses shall be acquired by levying assessments as provided in § 953.41.

§ 953.41 *Assessments.* (a) Each handler who first handles lemons shall, with respect to the lemons so handled by him, pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal year. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of lemons handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of lemons handled by all handlers as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers.

(b) At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increase shall be applicable to all lemons handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

§ 953.42 *Accounting.* (a) If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year. If any handler ceases to handle lemons he may demand payment of such refund, in which case such sum shall be paid to him.

(b) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

§ 953.43 *Funds.* All funds received by the committee pursuant to any provisions of this subpart shall be used solely for the purposes specified in this subpart and shall be accounted for in the manner provided in this subpart. The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

REGULATION

§ 953.50 *Marketing policy.* At the beginning of each fiscal year, the committee shall prepare and submit to the Secretary a report setting forth its proposed policy for the marketing of lemons during such fiscal year. In the event it becomes advisable to deviate from such marketing policy, because of changed demand and supply conditions, the committee shall formulate a new marketing policy and shall submit a report thereon to the Secretary. The committee shall notify handlers of the contents of such reports.

§ 953.51 *Recommendations for regulation.* (a) It shall be the duty of the committee to investigate the supply and demand conditions for lemons. Whenever the committee finds that such conditions make it advisable to regulate, pursuant to § 953.52, the handling of lemons during any week of the fiscal year, it shall recommend to the Secretary the quantity of lemons which it deems advisable to be handled during such week in each district defined in § 953.64. Thereafter, the committee shall promptly report such findings and recommendations, together with supporting information, to the Secretary.

(b) In making such recommendations, the committee shall give due consideration to the following factors: (1) Quantity of lemons in storage; (2) lemons on hand in, and en route to, the principal markets; (3) trend in consumer income; (4) present and predicted weather conditions; (5) present and prospective prices of lemons; and (6) other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 953.52, has fixed the quantity of lemons which may be handled during such week, the committee may, if it deems such action advisable because of unusual or unforeseen changes in the demand for lemons, recommend to the Secretary that such quantity be increased for such week. Any such recommendation, together with supporting information, shall be submitted promptly to the Secretary.

§ 953.52 *Issuance of regulations.* Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of lemons which may be handled during a specified week in each district, as aforesaid, will tend to effectuate the declared policy of the act, he shall fix such a quantity of lemons which may be handled during such week in each such district, which quantity may, at any time during such week, be increased by the Secretary. The committee shall be informed immediately of any such regulation issued by the Secretary and shall promptly give adequate notice thereof to handlers.

§ 953.53 *Prorate bases.* (a) As used in this section, "handler" means the person who is, or proposes to be, the person who handles lemons as the first handler

thereof; and each such handler shall submit to the committee, at such time as may be designated by it, a written application for a prorate base and for allotments, as provided in this subpart.

(b) Whenever the committee proposes to make recommendations for regulation, pursuant to § 953.51, it shall, with respect to each handler who has filed an application for a prorate base, compute the quantity of available lemons which, as of 12:01 a. m., on the Sunday nearest the date on which such computation is made, meets the requirements of marketing under applicable laws. Such computation shall be made every two weeks, beginning with a date in each fiscal year to be fixed by the committee, and continuing so long as such recommendations are proposed. In computing each handler's available lemons, the committee shall consider only such lemons as the handler owns or has contracted to buy, or has authority to market under a written contract.

(c) In computing the quantity of lemons which, for the applicable two-week period, each handler has available for current shipment, the committee shall compute the quantity of lemons which each handler has picked from the trees and has assembled at an established shipping point within the area of production.

(d) In the event any handler has lemons which he desires to market in channels other than fresh-fruit channels in the United States and Canada, he may request the committee to compute the number of weeks that such lemons could be held in storage, under commercial storage conditions, and, at the expiration of such period, would meet the requirements for marketing under applicable laws. Any such lemons shall be in containers and shall be assembled at one or more of the central points which may be approved by the committee. If the said handler is satisfied with the committee's computation, he shall give the committee written notification thereof and shall dispose of such lemons in channels other than fresh-fruit channels in the United States and Canada. The committee shall include such lemons as a part of the available lemons of such handler for the number of weeks computed, and such lemons shall not be included thereafter in any computation made pursuant to paragraph (c) of this section.

(e) Any handler who submits evidence satisfactory to the committee that such handler has lemons available for current shipment during the applicable two-week period, but, because of unavailable facilities, the quantity of such lemons cannot be computed satisfactorily, pursuant to paragraph (c) of this section, the committee shall compute, pursuant to uniform rules adopted by the committee and approved by the Secretary, the quantity of lemons which each such handler has available for current shipment during such period.

(f) The quantity of each handler's available lemons, as computed pursuant to this section, shall be reported by the committee to the Secretary and shall constitute the recommendation of the committee as the quantity of lemons to be used by the Secretary in determining the prorate base for each such handler: *Provided*, That such quantity may be adjusted by (1) the deduction of any undershipments, as provided for in § 953.58, or (2) the addition of any overshipments, as provided for in § 953.57, in the event any such handler makes an undershipment or an overshipment during the week preceding that in which such quantity was computed. Such report shall be made on the basis of the total quantity of each handler's available lemons in each of the aforesaid districts.

(g) Upon the basis of the recommendations and reports submitted by the committee, or other available information, the Secretary shall fix a prorate base for each handler who has made application therefor to the committee. Such prorate base shall represent the ratio between the quantity of each such handler's available lemons in a district, as aforesaid, and the quantity of all such handlers' available lemons in the same district, and shall be applicable for the two-week period immediately following the week in which it is fixed by the Secretary.

(h) During any two-week period in which a prorate base is effective for a handler, the committee may recommend to the Secretary that the prorate base of such handler be modified. In any such case, the committee shall submit a report to the Secretary showing the reasons therefor. Upon the basis of such recommendation and report, or other available information, the Secretary may modify the prorate base of any handler.

(i) The Secretary shall notify the committee of the prorate base fixed for each handler, and of any modifications thereof, and the committee shall give adequate notice to each handler of the prorate base fixed for him, or of any modification thereof.

(j) Any handler who has reason to believe that the computation made by the committee with respect to the quantity of such handler's available lemons is not accurate, may appeal to the Secretary for a recomputation thereof. Any such appeal shall be supported by evidence which shall show the inaccuracy of the committee's computation. Whenever a handler takes such an appeal to the Secretary, the handler shall, at the same time, notify the committee of such appeal and submit to the committee a copy of the evidence in support thereof. Upon receipt thereof, the committee shall immediately submit a report to the Secretary, setting forth the manner in which the quantity of the handler's available lemons was computed, and other data pertinent to a determination on the appeal.

§ 953.56 *Allotments.* Whenever the Secretary has fixed the quantity of lemons which may be handled during any week in a district, as aforesaid, and has fixed the handlers' prorate bases, the committee shall calculate the quantity of lemons which may be handled by each such handler during such week. The said quantity shall be the allotment of each such handler and shall be in an amount equal to the product of the handler's prorate base and the quantity of lemons fixed by the Secretary as the quantity which may be handled during such week in such district. The committee shall give adequate notice to each handler of the allotment computed for him pursuant to this section.

§ 953.57 *Overshipments.* During any week for which the Secretary has fixed the quantity of lemons which may be handled, any handler (when not required to reduce the quantity of lemons which he may handle, as provided in this section) may handle, in addition to his allotment, an amount of lemons equivalent to ten percent of said allotment, or one carload, whichever is greater. The quantity of lemons handled in excess of a handler's allotment (but not exceeding the quantity permitted to be handled, as provided in this section) shall be deducted from his allotment for the next week in which the handling of lemons is regulated under this subpart. If such allotment is in an amount less than such excess quantity of lemons permitted to be handled by a handler, such quantity handled in excess of his allotment shall be deducted from succeeding weekly allotments until such excess has been entirely offset.

§ 953.58 *Undershipments.* If a handler during any week handles a quantity of lemons less than his allotment for that week, such handler may, in addition to his allotment for the next succeeding week, handle only during such next succeeding week, a quantity of lemons equivalent to such undershipment.

§ 953.59 *Allotment loans.* (a) A handler for whom a prorate base has been established may lend allotments to other handlers: *Provided*, That such loans are confined to the same district, as defined in § 953.64, and evidenced by a bona fide written agreement, filed with the committee within 48 hours after the agreement has been entered into, under the terms of which such allotments are to be repaid during the current season.

(b) Allotments shall be loaned only during the week in which such allotments are issued and can be used by the borrower only during the week in which the loan is secured. Handlers securing repayment of allotment loans shall use such allotments only during the week in which the repayment is made.

(c) The committee may act as agent for handlers in arranging loans of allotments. In each such case, the committee shall confirm all such transactions by memoranda, addressed to the parties thereto, immediately after the completion thereof; and the signing and return of such memoranda by each such handler shall satisfy the requirements of paragraph (a) of this section with respect to bona fide agreements evidencing such loans.

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after repayment thereof.

§ 953.60 *Transfer of allotments.* Allotments shall not be transferred except upon the transfer of a quantity of lemons equal to the allotment which has been transferred.

§ 953.61 *Priority of allotments.* During any week in which a handler receives an allotment, and has the right to handle a quantity of lemons in addition to the quantity represented by his allotment, by reason of (a) an undershipment of lemons pursuant to § 953.58; or (b) a transferred allotment, pursuant to § 953.60; or (c) the repayment of a loaned allotment, pursuant to § 953.59; or (d) an assignment of an allotment, pursuant to § 953.63; or (e) a borrowed allotment, pursuant to § 953.59, and such handler handles a quantity of lemons which is less than the total quantity of lemons which such handler may handle during such week, the amount of lemons handled shall first apply to such handler's current weekly allotment (or to that portion thereof which is not used pursuant to §§ 953.57, 953.59, 953.60, or 953.63), and the remainder, if any, shall be applied in the following order: first, to any undershipment of lemons, pursuant to § 953.58; second, to any allotment repaid to him, pursuant to § 953.59; third, to any allotment transferred to him, pursuant to § 953.60; fourth, to any allotment assigned to him, pursuant to § 953.63; and fifth, to any allotment borrowed, pursuant to § 953.59.

§ 953.62 *Information to central marketing organizations.* (a) In order further to facilitate arranging allotment transactions pursuant to this subpart, the committee shall give any central marketing organization upon its request, the same notice with respect to prorate bases and allotments, applicable to each handler for whom it markets lemons, as is given to such handlers.

(b) Any central marketing organization which, pursuant to paragraph (a) of this section, receives information from the committee regarding prorate bases and allotments, applicable to handlers for whom it markets lemons, and which arranges allotment transactions for or on behalf of any of such handlers, shall keep records which will accurately reflect all such allotment transactions and such records shall be subject to examination by the committee and the Secretary. Any such central marketing organization shall make such reports and furnish such other information with respect thereto as may be required by the committee. If the Secretary finds that any such central marketing organization has failed to keep such records, or has assisted in effecting allotment transactions contrary to the provisions of this subpart, the provisions of paragraph (a) of this section shall not be applicable to such central marketing organization during such period as may be determined by the Secretary.

§ 953.63 *Assignment of allotments.* Any person who acquires lemons to be handled by him, and who does not have a prorate base on such lemons, may handle such lemons pursuant to an assignment of an allotment from the handler from whom such lemons were acquired and to whom the allotment had been issued, which assigned allotment shall be equal to the quantity of lemons acquired by such person.

Any such assignment shall be evidenced by a certificate which shall be in such form, and issued in such manner, as shall be prescribed by the committee.

§ 953.64 *Districts.* (a) "District 1" shall include that part of the State of California which is north of a line drawn due east and west through the Tehachapi mountains.

(b) "District 2" shall include that part of the State of California which is south of a line drawn due east and west through the Tehachapi mountains, but shall exclude Imperial County, California, and that part of Riverside County, California, situated south and east of the San Gorgonio Pass.

(c) "District 3" shall include the State of Arizona and that part of the State of California not included in District 1 and District 2.

REPORTS

§ 953.70 *Weekly report.* On or before such day of each week as may be designated by the committee, each handler shall report to the committee, on forms prepared by it, the following information with respect to lemons marketed by such handler during the immediately preceding week: (a) Quantity handled; (b) quantity shipped for distribution to persons on relief, including quantity donated for charitable purposes; (c) quantity sold or transported for consumption in fresh form in California or Arizona; (d) quantity sold or otherwise disposed of for canning or for manufacture into by-products; and (e) quantity disposed of otherwise.

§ 953.71 *Other reports.* Upon request of the committee made with the approval of the Secretary every handler shall furnish to the committee, in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in paragraph (a) of this section), such other information as will enable the committee to perform its duties and to exercise its powers under this subpart.

MISCELLANEOUS PROVISIONS

§ 953.80 *Lemons not subject to regulation.* Nothing contained in this subpart shall be construed to authorize any limitation of the right of any person to handle lemons (a) for consumption by charitable institutions or distribution by relief agencies; (b) for conversion into by-products; or (c) for export to foreign countries other than Canada; nor shall any assessment be levied on lemons so handled. The committee may prescribe adequate safeguards to prevent lemons handled for the purposes designated under paragraphs (a) and (b) of this section from entering commercial fresh fruit channels of trade contrary to the provisions of this subpart. The term "by-product" as used in this section includes all processed and manufactured products of lemons, including canned or bottled lemon juice.

§ 953.81 *Compliance.* Except as provided in this subpart, no handler shall handle lemons, during any week in which a regulation issued by the Secretary, pursuant to § 953.52, is in effect, unless such handler has an allotment, or an assignment of an allotment, covering such lemons, issued pursuant to this subpart, or unless such handler is otherwise permitted to handle such lemons, under the provisions of this subpart; and no handler shall handle lemons except in conformity to the provisions of this subpart.

§ 953.82 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary. In the event the committee, for any reason, fails to perform its duties or exercise its powers under this subpart, the Secretary may designate another agency to perform such duties and to exercise such powers.

§ 953.83 *Effective time.* The provisions of this subpart shall become effective April 10, 1941, and shall continue in force until terminated in one of the ways specified in § 953.84.

§ 953.84 *Termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of lemons: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such lemons produced for market; but such termination shall be effected only if announced on or before October 31 of the then current fiscal year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 953.85 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds property and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 953.86 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 953.87 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 953.88 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 953.89 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 953.90 *Personal liability.* No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 953.91 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 953.92 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

Issued at Washington, D. C., this 7th day of June 1951, to be effective upon publication in the FEDERAL REGISTER.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-6790; Filed, June 11, 1951; 8:53 a. m.]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

SUBPART—LEMON ADMINISTRATIVE COMMITTEE RULES AND REGULATIONS

Simultaneously herewith, the Secretary of Agriculture is issuing an amended order[1] regulating the handling of lemons grown in the States of California and Arizona, in which the section and paragraph designations of said order are completely revised. The rules and regulations of the Lemon Administrative Committee contain references to the section and paragraph designations of the order prior to the aforesaid amendment. The purpose of this amendment to the Lemon Administrative Committee's rules and regulations is solely to correct such section and paragraph references. It is not intended, nor shall this amendment be construed, to change any of the substantive provisions of said rules and regulations.

Wherefore, it is hereby found that it is unnecessary to engage in public rulemaking with respect to the amendment of said rules and regulations herinafter set forth and that good cause exists for making this amendment effective upon the publication thereof in the FEDERAL REGISTER, which is the effective date of the aforesaid amendment to the marketing order.

The rules and regulations of the Lemon Administrative Committee under the order, as amended, regulating the handling of lemons grown in the States of California and Arizona are hereby amended to read as follows:

Sec.
953.110 Nomination procedure.
953.120 Regulation.
953.130 Interpretative rules.
953.140 Reports.

AUTHORITY: §§ 953.110 to 953.140 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 953.110 *Nomination procedure.* (a) The time of nominating members and alternate members of the Lemon Administrative Committee shall be not later than 20 days preceding the date of expiration of the terms of the members and alternate members of the said committee, and the manner of nominating members and alternate members of said committee shall be as follows:

(1) The California Fruit Growers Exchange, a California nonprofit cooperative marketing association with its principal place of business at Los Angeles, California, so long as it continues to market more than 60 percent of the total volume of lemons marketed in fresh form, as provided in the marketing agreement and order, shall by resolution adopted by its board of directors, nominate not less than 6 growers for 3 members and 6 growers for 3 alternate members of the committee.

(2) A meeting shall be held, at such time and place as may be designated by the agent of the Secretary, at which all cooperative marketing organizations, other than the California Fruit Growers Exchange (which includes its affiliated district exchanges and local associations), shall nominate not less than 2 growers for a member and 2 growers for an alternate member of the committee. The vote of each such organization shall be weighted by the quantity of lemons which it marketed in fresh form during the fiscal year (as defined in the marketing agreement and the order), the end of which is nearest the date on which the meeting is held. Any person who votes at any such meeting shall submit to the agent of the Secretary written evidence of his authority to vote for such an organization.

(3) Not less than 5 and not more than 10 meetings shall be held, at such times and places, throughout the lemon-producing areas in California and Arizona, as may be designated by the agent of the Secretary, at which growers who are not members of, or affiliated with, the organizations included under subparagraphs (1) and (2) of this paragraph may vote. At each such meeting, the growers present shall nominate 1 grower. The number of ballots to be cast in selecting the 1 nominee for each meeting shall be determined at the respective meeting. All growers voting at any such meeting shall submit their names and addresses to the agent of the Secretary.

(4) The name and address of the grower who has been selected at each of the grower meetings to be held pursuant to subparagraph (3) of this paragraph shall be placed on a ballot which shall be mailed to all growers of record, and otherwise made available to growers, who are not members of, or affiliated with, a cooperative marketing organization which markets lemons with instructions to vote for only 1 grower whose name appears on the ballot, and to sign the ballot and return it within such reasonable time as may be determined by the agent of the Secretary.

(5) The agent of the Secretary shall give adequate notice of any meeting to be held pursuant to this section and of the voting for nominees by growers who are not members of, or affiliated with, a cooperative marketing organization, as provided in subparagraph (4) of this paragraph.

§ 953.120 *Regulation* — (a) *Application for prorate base.* Handlers shall submit an application for a prorate base and allotment to the Lemon Administra-

[1] See F. R. Doc. 51-6790, *supra*.

tive Committee at the beginning of each season.

(b) *Central points.* "Central points" shall mean the handler's packinghouse. This term shall include lemons assembled elsewhere if such assembly has been approved by the committee.

(c) *Computation of available lemons.* (1) Any handler requesting a computation of available lemons in accordance with § 953.53 (e) shall submit a written application to the Lemon Administrative Committee. This application shall be submitted not less than 5 days prior to the date as of which the computation of available lemons is to be made and shall include the following and any other pertinent information which may be requested by the committee:

(i) The lemon acreage and number of trees under the control of the applicant during the current season and for the 2 preceding seasons. Handlers shall furnish contracts or other evidence of title to the lemons upon which their applications are based. The committee may require applicants to furnish the following information for the current season and each of the 2 preceding seasons: (*a*) The number of acres of lemon trees and the number of trees owned by the applicant; (*b*) The number of acres of lemon trees and the number of trees the applicant has contracted t buy; and (*c*) the number of acres of lemons and the number of trees the lemons from which the applicant has authority to market under written contract.

(ii) The estimated crop of lemons on the trees which are under the control of the applicant. The committee may require the submission of such estimate for each of the 2 preceding seasons.

(iii) Description of facilities within the area of production which are owned or controlled by the applicant for the assembling of lemons or which are available to the applicant for such assembly.

(iv) A record of the quantity of lemons picked, by weeks, during the current season and during the 2 preceding seasons.

(v) Record of the quantity of lemons disposed of by weeks, during the current season and during the 2 preceding seasons, in the following channels: (*a*) Interstate commerce including Canada; (*b*) intrastate commerce; (*c*) exported; (*d*) diverted to by-products uses; and (*e*) disposed of otherwise.

(vi) Description of the marketing methods and policies followed by the applicant in the handling of lemons.

(vii) Record of the quantity of lemons the applicant has in storage.

(2) The committee shall consider the evidence submitted by a handler pursuant to subparagraph (1) of this paragraph to determine whether such evidence establishes unavailability of facilities. In making this determination the committee will consider the following factors as well as such other factors as may seem appropriate:

(i) The facilities for assembling lemons available to such handler compared with the facilities for such assembly available to other handlers.

(ii) The established handling and shipping policy of such handler as related to the handling and shipping policies generally followed by all handlers.

(iii) Weather conditions, labor supply, and any other factor that would limit the picking and assembly of lemons by the applicant.

(3) If the committee from the available information determines that the handler is entitled to a computation of his available lemons under § 953.53 (e), it shall compute for each such handler the quantity of lemons available for current shipment during the applicable 2-week period which such handler would have picked and assembled if facilities were available to him.

(d) *Allotment loans.* Allotment loans shall be repaid in the week following that in which such loans are made; such loans shall be deemed repaid if they fall due in a week in which there is no limitation of shipments.

§ 953.130 *Interpretative rules* — (a) *Overshipment tolerances.* Under the provisions of § 953.57, an overshipment tolerance is not available to a handler during any week or weeks in which he is required to reduce the quantity of lemons which he may handle by reason of prior shipments of lemons in excess of his allotment therefor: *Provided,* That repayments of borrowed allotments shall not preclude a handler from claiming and using overshipment tolerances in cases otherwise appropriate.

§ 953.140 *Reports.* Handlers shall submit the following reports containing the following information to the Lemon Administrative Committee, 111 West Seventh Street, Los Angeles 14, California. Copies of the report forms may be obtained from said committee.

(a) *Available lemon count* (L. A. C. Form 1). Name, address, and location of applicant handler; actual number of boxes of lemons in specified containers; packed box equivalent of actual number of boxes of lemons; and certification of handler.

(b) *Advanced credit count* (L. A. C. Form 2). Name, address, and location of handler; block or description of lemon; loose boxes gross; percentage of slack boxes or unmerchantable boxes of lemons; loose boxes net; packed boxes; number of counts; purpose for which lemons are diverted; ending date of diversion period; and certification of handler.

(c) *Lemon diversion report* (L. A. C. Form 5). Name and address of approved by-products plant or charitable organization or other diversion of lemons from fresh fruit channels; number of loose gross boxes and advanced credit count number of juice grade or nonjuice grade lemons; net weights of juice grade and nonjuice grade lemons, respectively, and total net weight of such lemons; and certification of handler.

(d) *Certificates of assignment of allotments* (L. A. C. Form 6). Certificates of Assignment of Allotment as provided in § 953.63 of the amended marketing agreement and order shall be issued by all handlers at the time of sale or transfer of any lemons from such handlers. Such certificate shall cover the total quantity of lemons sold or transferred and shall contain the following information: Date lemons are delivered; handler's invoice number when and if available; name of consignee (purchaser or receiver); destination (address of consignee); truck driver's name; truck driver's address; number of packed boxes of lemons covered by the assignment. Each certificate of assignment of lemons shall be signed by the handler or his authorized agent and shall show the address of the handler issuing it.

(e) *Reports of transfers of allotments* (L. A. C. Form 7). Reports of all transfers of allotments shall be made to the Lemon Administrative Committee, by mailing to the committee the original of each Certificate of Transfer of Allotment issued. Such certificate shall be submitted daily by the handler who issues it.

(f) *Weekly report form* (L. A. C. Form 8). The weekly report required by § 953.70 of the amended marketing agreement and order shall be submitted to the Lemon Administrative Committee on or before 12:01 p. m., P. s. t., Monday of each week, and shall contain the following information: The period covered by the report; the movement of fresh lemons subject to prorate in interstate commerce and intrastate commerce; exports (other than to Canada); quantities sold or disposed of to canners or by-product manufacturers; quantities shipped for distribution to persons on relief or donated for charitable institutions. This report shall be signed by the handler submitting it, or his authorized agent. The reverse side of the report shall contain the following information; the railroad car number, or if shipment is made by truck or other means, the date and number of the Certificate of Assignment of Allotment; the number of packed boxes shipped in interstate commerce and intrastate commerce; if shipments are exported to points other than to Canada the railroad car number, or if shipment is made to steamship by truck or other means, the number of the Certificate of Assignment of Allotment; the name of the steamship, if any; the destination, and the number of packed boxes.

(g) *Conversion factors.* All lemons shall be reported in terms of packed "boxes" as defined in § 953.9 of the amended marketing agreement and order. Where shipment is made in any form other than in packed boxes the lemons shall be converted to packed boxes on the basis of 79 pounds per packed box: *Provided,* That the following conversion tables may be used:

One box fresh loose lemons equals 81 percent of one packed box.

One box by-products lemons equals 63.3 percent of one packed box.

(h) *Application for a prorate base and allotments.* Name and address of applicant handler; information on net cubical content of standard lemon and orange boxes, of field boxes, and of irregular containers; copies of forms used under which applicant has authority to market under written contract or has contracted to buy lemons; name, post office address, and acreage of each grower, and production information by growers; location of packing and storage

facilities for lemons of applicant; and signature of applicant.

(i) *Application for computation of available lemons.* Acreage and trees; estimated crop of lemons for current season in number of field boxes; lemon picks in field boxes, by weeks, since last week shown in any previous application; disposition of number of packed boxes of lemons by weeks since last application; quantity of lemons now assembled in packed boxes; and name and address of applicant handler.

(j) *Agreement with by-products manufacturer.* Requests to be included in list of approved by-products manufacturers issued by the committee; agreement that all lemons purchased by the applicant manufacturer, on which the committee has issued advance credit counts will be used solely for manufacturing purposes; understanding that failure to comply with agreement on part of manufacturer will cause removal of manufacturer's name from the list of approved by-products firms; and name and address of applicant manufacturer.

Done at Washington, D. C., this 7th day of June 1951, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-6791; Filed, June 11, 1951; 8:53 a. m.]

PART 962—FRESH PEACHES GROWN IN GEORGIA

DETERMINATION RELATIVE TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1951–52 FISCAL PERIOD

Notice was published in the May 5, 1951, daily issue of FEDERAL REGISTER (16 F. R. 4145) that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the 1951–52 fiscal period under the marketing agreement, as amended, and Order No. 62, as amended (7 CFR, Part 962; 15 F. R. 4105), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended. After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Industry Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 962.205 *Expenses and rate of assessment for the 1951–52 fiscal period*—(a) *Expenses.* The expenses necessary to be incurred by the Industry Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, to enable such committee to perform its functions, in accordance with the provisions thereof, during the fiscal period beginning March 1, 1951, will amount to $23,220.00.

(b) *Rate of assessment.* The rate of assessment, which each handler who first handles peaches shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said amended marketing agreement and order is hereby fixed at one and one-half cents ($0.015) per bushel basket of peaches (net weight 50 pounds), or its equivalent of peaches in other containers or in bulk.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that (1) shipments of peaches from Georgia are now being made and the mandatory maturity regulation and inspection requirement contained in the aforesaid amended marketing agreement and order are in effect; (2) the rate of assessment is applicable to all fresh peaches shipped during the 1951–52 fiscal period; (3) a large volume of the Georgia peach crop is handled by itinerant truckers and cash buyers who operate in the area only part of the season; and (4) in order for the regulatory assessment to be collected, especially from those handlers who do not have definite or established places of business in the production area, it is essential that the specification of the assessment rate be issued immediately so as to enable the said Industry Committee to perform its duties and functions under said amended marketing agreement and order.

As used herein, the terms "handler," "handles," "shipped," "peaches," "production area," and "fiscal period" shall have the same meaning as is given to each such term in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 6th day of June 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-6736; Filed, June 11, 1951; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 7, Amdt. 73]

PART 60—AIR TRAFFIC RULES

DANGER AREA ALTERATIONS

The danger area alternations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy, and the Air Force, through the Air Coordinating Committee, Airspace Subcommittee, and are adopted when indicated in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required. Title 14, § 60.13–1 is amended as follows:

The Haven, Wisconsin, area, published on March 30, 1950, in 15 F. R. 1783, and amended on August 18, 1950, in 15 F. R. 5497, is revised to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Using agency
HAVEN (Milwaukee and Green Bay Charts).	Beginning at lat. 44°02'30" N, long. 87°28'00" W; SE to lat. 43°57'05" N, long. 87°22'10" W; due S to lat. 43°47'00" N; SSW to lat. 43°37'05" N, long. 87°27'10" W; NW to lat. 43°48'00" N, long. 87°42'30" W; due W to long. 87°47'50" W; due N to lat. 43°55'30" N due E to long. 87°41'00" W; NE to lat. 44°02'30" N, long. 87°28'00" W, point of beginning.	Surface to 85,000 feet.	0600 to 2000 daily.	Hdq., 5th Army, Chicago, Ill.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on June 12, 1951.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 51-6799; Filed, June 11, 1951; 8:56 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5839]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

SAMSON CORDAGE WORKS ET AL.

Subpart—*Combining or conspiring:* § 3.425 *To enforce or bring about resale price maintenance;* § 3.430 *To enhance, maintain or unify prices;* § 3.452 *To limit production;* § 3.470 *To restrain and monopolize trade.* I. In connection with the offering for sale, sale and distribution in commerce, of "cordage products", including cotton sash cords, awning cords, clothes lines, and other cotton cordage similarly constructed or used for substantially similar purposes and on the part of respondent Samson Cordage Works, and six other corporations, and on the part of two individual respondents, and on the part of said respondents' officers, etc., entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, mutual agreement, combination or conspiracy between and among any two or more of said respondents or between any one or more of said respondents and another or others not parties, to (1) fix, establish or maintain prices, discounts, terms or conditions of sale; (2) fix, modify, or eliminate trade discounts; (3) curtail, restrict, or regulate production by reducing the total number of work hours or by any other means; (4) eliminate grades or weights of "cordage products" in conjunction

with, pursuant to, or in furtherance of, the fixing or stabilizing of prices; (5) make uniform deductions or allowances from actual shipping costs; (6) establish standards or specifications for sizes, weights and descriptions for "cordage products" when the action taken or information exchanged is for the purpose of fixing or maintaining prices or differentials in prices or has the tendency to fix or maintain prices or differentials in price; (7) deny purchasers the benefit of market price declines; or, (8) exchange, distribute or relay between or among the respondents, or between or among any of them, or between or among any of their representatives, agents or employees, or through any medium or central agency the following information with respect to the business practices or sales policies of any particular respondent, to wit: Current or future prices, or terms or conditions of sale, or trade discounts, or freight charges or allowances therefrom, or price quotations submitted or to be submitted on any prospective piece of business; and II, in said connection and on the part of said various respondents, or any of them, their officers, etc., and whether acting separately or in concert, entering into or continuing in operation any contract, agreement or understanding with customers which provides that said products are not to be advertised, offered for sale or sold by said customers at prices other than those specified or fixed by said respondents, whether acting separately or in concert; prohibited, subject to the provision, however, that nothing contained in the order shall be construed to prohibit (a) any seller from independently entering into an agreement with a purchaser as to the price to be charged such purchaser, the terms or conditions of sale, trade discounts, weights, grades, standards or specifications for "cordage products", price differentials, and freight charges or allowances, independently determined and offered by either such seller or buyer and independently accepted by either such seller or buyer in any bona fide transaction, or (b) any prospective seller from making, or any prospective purchaser from receiving, an offer of sale in contemplation of a bona fide transaction between such prospective seller and prospective purchaser; provided that such agreement or offer of sale is not for the purpose nor has the effect of restraint of trade; to the further provision that nothing contained in the order shall be construed to prohibit any of the respondents from entering into such contracts or agreements relating to the maintenance of resale prices as are permitted under the provisions of the Miller-Tydings Act; and to the further provision that nothing contained in the order shall be construed to affect the duty, authority, or power of the Commission to reopen this proceeding, as provided for by law, and to alter, modify or set aside, in whole or in part, any provision of the order whenever, in the opinion of the Commission, conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Samson Cordage Works et al., Docket 5839, March 26, 1951]

This proceeding was heard by Everett F. Haycraft, trial examiner, upon the complaint of the Commission and respondents' answers in which they admitted all material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to the said facts.

Thereafter the proceeding regularly came on for final consideration by said trial examiner, theretofore duly designated by the Commission, upon said complaint, and answers thereto (all intervening procedure having been waived) and said trial examiner, having duly considered the record in the matter and having found that said proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts, conclusion drawn therefrom, and order to cease and desist.

No appeal having been filed from said initial decision of said trial examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII, became the decision of the Commission March 26, 1951.

The said order to cease and desist is as follows:

It is ordered, That Samson Cordage Works, a corporation, Puritan Cordage Mills, a corporation, Shuford Mills, Incorporated, a corporation, Cleveland Mill & Power Company, a corporation, Southern Mills Corporation, a corporation, Rockford Manufacturing Company, a corporation, Wm. E. Hooper & Sons Company of Baltimore City, a corporation, and Paul B. Halstead, an individual, and Bascom B. Blackwelder, an individual, their officers, directors, agents, representatives and employees, directly or through any corporate or other device, in connection with offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of "cordage products," including cotton sash cords, awning cords, clotheslines, and other cotton cordage similarly constructed or used for substantially similar purposes as any of the foregoing, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, mutual agreement, combination or conspiracy between and among any two or more of said respondents, or between any one or more of said respondents and another or others not parties hereto, to do or perform any of the following:

Fixing, establishing or maintaining prices, discounts, terms or conditions of sale.

Fixing, modifying, or eliminating trade discounts.

Curtailing, restricting, or regulating production by reducing the total number of work hours or by any other means.

Eliminating grades or weights of "cordage products" in conjunction with, pursuant to, or in furtherance of, the fixing or stabilizing of prices.

Making uniform deductions or allowances from actual shipping costs.

Establishing standards or specifications for sizes, weights and descriptions for "cordage products" when the action taken or information exchanged is for the purpose of fixing or maintaining prices or differentials in prices or has the tendency to fix or maintain prices or differentials in price.

Denying purchasers the benefit of market price declines.

Exchanging, distributing or relaying between or among the respondents, or between or among any of them, or between or among any of their representatives, agents or employees, or through any medium or central agency the following information with respect to the business practices or sales policies of any particular respondent, to wit: Current or future prices, or terms or conditions of sale, or trade discounts, or freight charges or allowances therefrom, or price quotations submitted or to be submitted on any prospective piece of business.

It is further ordered, That the respondents herein, or any of them, their officers, representatives, agents and employees, acting separately or in concert, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of "cordage products" in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into or continuing in operation any contract, agreement, or understanding with customers which provides that "cordage products" are not to be advertised, offered for sale or sold by such customers at prices other than those specified or fixed by the respective respondents, acting separately or in concert.

It is further ordered, That nothing contained herein shall be construed to prohibit (a) any seller from independently entering into an agreement with a purchaser as to the price to be charged such purchaser, the terms or conditions of sale, trade discounts, weights, grades, standards or specifications for "cordage products," price differentials, and freight charges or allowances, independently determined and offered by either such seller or buyer and independently accepted by either such seller or buyer in any bona fide transaction, or (b) any prospective seller from making, or any prospective purchaser from receiving, an offer of sale in contemplation of a bona fide transaction between such prospective seller and prospective purchaser; provided that such agreement or offer of sale is not for the purpose nor has the effect of restraining trade.

It is further ordered, That nothing contained herein shall be construed to prohibit any of the respondents from entering into such contracts or agreements relating to the maintenance of resale prices as are permitted under the provisions of the Miller-Tydings Act.

It is further ordered, That nothing contained herein shall be construed to affect the duty, authority, or power of the Commission to reopen this proceeding, as provided for by law, and to alter, modify or set aside, in whole or in part, any provision of this order whenever, in the opinion of the Commission, conditions of fact or of law have so changed as

to require such action or if the public interest shall so require.

By "Decision of the Commission and order to File Report of Compliance", Docket 5839, March 26, 1951, which announced and decreed fruition of said initial decision, report of compliance with the order was required as follows:

It is ordered, That respondents Samson Cordage Works, Puritan Cordage Mills, Shuford Mills, Incorporated, Cleveland Mill & Power Company, Southern Mills Corporation, Rockford Manufacturing Company, Wm. E. Hooper & Sons Company of Baltimore City, Paul B. Halstead, and Bascom B. Blackwelder shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 26, 1951.

By the Commission.

[SEAL] D. C. DANIELS,
Secretary.

[F. R. Doc. 51-6786; Filed, June 11, 1951; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 6, Amendment 9]

CPR 6—FATS AND OILS

REDEFINITION OF "OIL-BEARING RAW MATERIALS AND ANIMAL WASTE FAT"

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order 2 (16 F. R. 738) this Amendment 9 to Ceiling Price Regulation 6 is hereby issued.

STATEMENT OF CONSIDERATIONS

The purpose of this amendment is to clarify the term "oil-bearing raw materials and animal waste fat" as defined in section 16 (d) of CPR 6 and to correct a typographical error in CPR 6.

The new definition of the term "oil-bearing raw materials and animal waste fat" makes it clear that reference is made to all sales of those materials which are principally used in the rendering of inedible tallow and greases. The fact that these products may have other uses of secondary importance, or the fact that an individual seller may have sold the bulk or all of his supply of these products to users other than renderers is immaterial.

This clarification is particularly required with reference to "bones", cited in the previous definition as a specific example of one of these products. This term is now expanded to read "bones, other than packer steamed dry bones, prairie bones or dry imported bones." Such bones find their primary outlet in the rendering industry; packer steamed dry bones, prairie bones or dry imported bones, however, are not used in the rendering industry.

Finally, a typographical error in the previous definition is corrected to make it clear that the terms "clear, rough or mixed" modify the term "cooked grease."

AMENDATORY PROVISIONS

Section 16 (d) is amended to read as follows:

(d) The term "oil-bearing raw materials and waste animal fat" means those materials whose principal use is in the rendering of inedible tallow and greases. It includes, but is not limited to, butcher shop fats; suet and trimmings; breast fats or rattles; offal; bones, except packer steamed dry bones, prairie bones or dry imported bones; cooked grease, clear, rough or mixed; and interceptor or trap grease.

(Sec. 704, Pub. Law 774, 81st Cong.)

Effective date. This amendment shall become effective June 16, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JUNE 11, 1951.

[F. R. Doc. 51-6872; Filed, June 11, 1951; 11:20 a. m.]

Chapter VI—National Production Authority, Department of Commerce

[CMP Regulation 1, Direction 1]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 1—PROCEDURE FOR OBTAINING MINIMUM QUANTITIES OF MATERIALS BY PRODUCERS OF CLASS B PRODUCTS

This direction under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

SECTION 1. *What this direction does.* This direction constitutes a determination by the National Production Authority that producers of certain class B products shall not be required to submit applications on Form CMP-4B if their total requirements of controlled materials do not exceed a certain maximum. It also establishes a procedure whereby such producers may place authorized controlled material orders for such materials without obtaining an allotment. Such producers shall be subject to all CMP regulations and orders.

SEC. 2. *Persons affected by this direction.* A producer of a class B product which is listed in the "Official CMP Class B Product List" and which is not identified by an asterisk is not required to submit an application on Form CMP-4B with respect to such product for any calendar quarter in which his total requirements of each kind of controlled material for the production of that product and all other products in the same product class do not exceed the amounts specified below:

Carbon steel (including wrought iron)	5 tons.
Alloy steel (except stainless steel)	½ ton.
Stainless steel	none.
Copper and copper-base alloy brass mill products, copper wire mill products, copper and copper-base alloy foundry products and powder	500 pounds.
Aluminum	500 pounds.

The term "product class" as used herein means a Product Class Code as shown in the "Official CMP Class B Product List."

SEC. 3. *Use of allotment symbol to obtain controlled materials.* Any producer of class B products who is not required to file a Form CMP-4B by reason of this direction is authorized to use the allotment symbol SU on delivery orders for controlled materials within the limits set forth in section 2 of this direction. An order so designated, when certified as provided in section 5 of this direction, shall constitute an authorized controlled material order. The quantity of such class B products which may be produced with controlled materials obtained with the use of the allotment symbol SU plus controlled materials properly contained in inventory shall constitute an authorized production schedule for the purpose of all CMP regulations.

SEC. 4. *Use of rating to obtain production materials other than controlled materials.* Any producer of class B products who is not required to file a Form CMP-4B by reason of this direction is authorized to use the rating DO-SU on delivery orders for production materials as defined in CMP Regulation No. 3 in accordance with the provisions of that regulation.

SEC. 5. *Certification.* Every delivery order placed under the provisions hereof shall contain, in the case of an order for controlled materials, the certification required by section 19 of CMP Regulation No. 1, or, in the case of an order for production materials other than controlled materials, the certification required by section 6 of CMP Regulation No. 3.

(Sec. 704, Pub. Law 774, 81st Cong. Interpret or apply sec. 101, Pub. Law 774, 81st Cong.; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61)

This direction shall take effect on June 8, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-6829; Filed, June 8, 1951; 3:01 p. m.]

[CMP Regulation 1, Direction 2]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 2—ASSIGNMENT TO CONTROLLED MATERIALS PRODUCERS OF RATING AUTHORITY TO OBTAIN PRODUCTION MATERIALS OTHER THAN CONTROLLED MATERIALS

This direction under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Produc-

tion Act of 1950. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

SECTION 1. *Assignment of rating authority.* Any producer of controlled materials who requires production materials as defined in section 21 of CMP Regulation No. 1 (other than controlled materials) for use in the production of controlled materials is hereby authorized to use the rating DO–PM to obtain such production materials for delivery after June 30, 1951. Such rating shall be used and the delivery order shall be certified as provided in CMP Regulation No. 3.

(Sec. 704, Pub. Law 774, 81st Cong. Interpret or apply sec. 101, Pub. Law 774, 81st Cong.; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61)

This direction shall take effect on June 8, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-6830; Filed, June 8, 1951; 3:01 p. m.]

[NPA Order M–1, as Amended June 8, 1951]

M–1—IRON AND STEEL

This order, M–1, as amended, is found necessary and appropriate to promote the national defense and is issued pursuant to authority granted by section 101 of the Defense Production Act of 1950. In the issuance of this order and certain amendments thereto, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. In the issuance of certain other amendments, consultation with industry representatives was rendered impracticable, due to the necessity for immediate action.

NPA Order M–1, as last amended May 18, 1951, is hereby amended in the following respects:

Paragraph (a) of section 17 of the order is hereby amended by deleting the requirement for a report from steel producers on Form NPAF–13 and substituting therefor the requirement for a report on Form NPAF–100. The order is further amended by changing certain of the product limitation percentages contained in part C of table I, by changing certain of the footnotes set out at the end of table I, and by adding the words "wheels and axles" to line 11 of table II under the heading Carbon and low-alloy steel, so that the identified line will read "Rails, wheels, and axles."

Sec.

AUTHORITY: Sections 1 to 20 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply sec. 101, Pub. Law 774, 81st Cong.; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this order does.* This order applies particularly to producers of iron and steel and provides rules for placing, accepting, and scheduling rated orders for iron and steel. Its purpose is to provide equitable distribution of rated orders among all iron and steel producers of the particular products in order to make possible maximum production and to reduce to a minimum disruption of normal distribution. It makes provision for required acceptance of rated orders based on a percentage of previous shipments, and provides for allotment and maximum inventories. It supplements NPA Regs. 1 and 2, but only those provisions of Regs. 1 and 2 which are inconsistent with this order are superseded, and all other provisions of those regulations continue to apply to the iron and steel industry.

SEC. 2. *Forms of iron and steel products to which this order applies.* The iron and steel products to which this order applies are set out in Table I at the end of this order. Table I also sets out the lead time (days) and product limitation for acceptance of rated orders. This order also applies to all second quality materials and shearings and material sorted or salvaged from steel scrap and sold for other than remelting purposes.

SEC. 3. *Required shipment dates.* A rated order for iron or steel in any of the forms listed in Part A of Table I must specify shipment on a particular date or in a particular month, which, in no case, may be earlier than required by the person placing the order. The producer of iron or steel must schedule the order for shipment within the requested month as close to the requested shipment date as is practicable considering the need for maximum production.

SEC. 4. *Rejection of rated orders (lead time).* A producer of iron or steel in a form listed in Part A of Table I need not accept a rated order which is received by him less than the number of days (lead time) set forth in Part B of Table I prior to the first day of the month in which shipment is requested, unless specifically directed to accept such order by the National Production Authority.

SEC. 5. *Product limitation for acceptance of rated orders.* Unless specifically directed by NPA, no iron or steel producer shall be required to accept rated orders for shipment from any one producing unit regardless of location in any one month in excess of the percentages set forth in Part C of Table I, of his average monthly shipments of the products listed in said part, as made by him during the period from January 1, 1950, through August 31, 1950. Where no percentage limitation is set forth as to any product, it is expected that the amount of such product to be called for by rated orders will be relatively small.

SEC. 6. *Conditions for acceptance of rated orders.* Unless otherwise specifically directed by the National Production Authority, and subject to the provisions of NPA Reg. 2, each iron or steel producer shall be required to accept rated orders calling for shipment in any one month from any one of his producing units regardless of location, of products listed in Part A of Table I up to the amount of the percentages listed in Part C of Table I of his average monthly shipments of such products from that producing unit during the period from January 1, 1950, to August 31, 1950. Where no percentage is listed in Part C, in regard to any iron or steel product, each iron or steel producer shall be required to accept all rated orders served upon him, subject to the provisions of NPA Reg. 2, unless otherwise specifically directed by the National Production Authority.

SEC. 7. *Changes in lead time.* (a) If an iron or steel producer would have an open space on his production schedule created by the difference between the lead time of forty-five days as established by this order as originally issued or as subsequently amended, and a longer lead time as established by section 4 of this order, he shall continue to accept rated orders to fill such open space on his production schedule, on the basis of a lead time of forty-five days, before he applies the newly established longer lead time. In filling such open space on his production schedule, as above referred to, an iron or steel producer shall be governed by the product limitation percentage appearing in Part C of Table I.

Example: Under the previously established lead time of 45 days, a steel producer would, up to December 17, 1950, accept DO rated orders for shipment in February 1951. Where a lead time has been increased to 120 days, he would, up to January 31, 1951, accept DO rated orders for shipment in June 1951. In the application of this example, the steel producer would continue to accept DO rated orders for shipment in March and April 1951, on a 45-day lead time until he had arrived in any one month at the product limitation percentage of that product as set forth in Part C, of Table I. Thereafter, he would conform to the new lead time of 120 days for shipment in the succeeding months.

(b) In the example in paragraph (a) of this section, if the product limitation percentage under Part C of Table I as to that particular iron or steel product has been increased from 5 percent to 10 percent, the iron or steel producer should accept DO rated orders up to the amount of the new product limitation

percentage figure, commencing with shipments for the month of March 1951, and should continue at that new figure thereafter.

SEC. 8. *Allotments for further conversion.* A steel producer who buys from another steel producer a steel product listed under the heading "Steel Mill Products" in part A of Table I (herein called "steel mill products"), and by further processing converts, for resale, the purchased steel into another steel mill product is engaged in further conversion. For the purpose of this section, the steel producer who sells a steel mill product for further conversion shall be called a producer supplier and the steel producer engaged in further conversion shall be called a converter. Each producer supplier shall make a monthly allotment to each of his converter customers of his production of each steel mill product in accordance with provisions of this section. In order to determine such monthly allotment for each converter customer, each producer supplier shall determine the amount of each steel mill product which will be available for that particular month after making provision for production under DO rated orders and other orders which said steel producer is required to accept by specific direction by the NPA. The ratio of the tonnage thus remaining to the total average monthly shipments of each such product during the base period, from January 1, 1950, through September 30, 1950, shall be applied to the average monthly shipments of each such product to each converter customer during the base period. The result shall be the monthly allotment for each converter customer: *Provided, however,* That the monthly allotment of each carbon steel mill product (except carbon plates for line pipe) shall in no case be less than 90 percent of the average monthly tonnage of each carbon steel mill product shipped to each converter customer during the base period. Any such allotment of a carbon steel mill product shall include the tonnage to be shipped on all DO rated orders for that particular product received by the steel producer from such converter customer for shipment during the month for which the allotment had been made. A producer supplier must accept orders placed by his converter customer up to the limit of his allotment: *Provided, however,* That such orders are placed in accordance with the lead times in part B of table I. Shipments, except for carbon steel mill products for which a minimum tonnage is provided in this section, under such allotments shall be made in addition to shipments to the same converter cutomer pursuant to authorized extension of DO ratings. Orders placed under the provisions hereof must be for substantially the same product as was supplied to each such converter customer during such base period, except for minor variations in size and design. In determining the amount of the monthly allotments, adjustments may be made by a producer supplier, with the consent of the converter customer involved, to provide for any abnormal situations which affect any steel products. Converter customers in Canada shall be entitled to the benefits of this section, and producer suppliers in the United States shall make monthly allotments to Canadian converter customers in accordance with the provisions of this section.

SEC. 9. *Extension of ratings for further conversion of steel products.* All DO ratings extended for the purpose of further conversion of steel products shall have the symbol FC added to the two-digit designation following the prefix DO on the order.

SEC. 10. *NPA assistance in placing rated orders.* Any person who is unable to place a rated order for iron or steel due to the limitations imposed by sections 5 and 6 of this order should apply to the NPA, Iron and Steel Division, Ref.: M–1, specifying the producers who refused to accept the order. The NPA will arrange to assist him in locating other sources of supply.

SEC. 11. *Scheduled programs.* NPA will from time to time approve scheduled programs calling for the production and delivery of iron and steel products for stated purposes, over specified periods of time. Upon approval of major programs of this type, supplements to this order will be issued describing such programs and specifying the manner in which they are to be carried out by the iron and steel industry. Thereafter, directives will be issued to individual concerns establishing schedules for their participation in such programs. Such directives shall be complied with by the recipients in accordance with the terms thereof, unless otherwise directed by NPA.

SEC. 12. *Minimum orders.* The minimum orders that may be placed with DO ratings or under NPA directives are set out in Table II at the end of this order. The minimum quantity for each size and grade of any item for shipment at any time to any one destination is listed opposite the appropriate item. If all other requirements of this order have been met, orders for such minimum quantities shall be accepted.

SEC. 13. *Inventories.* In addition to the provisions of NPA Reg. 1, relating to inventory control, it is considered that a more exact requirement applying to users of iron or steel products is necessary. No person obtaining iron or steel products for use in manufacture, processing, or construction, may receive or accept delivery of a quantity of iron or steel products if his inventory is, or by such receipt would become, in excess of that necessary to meet his deliveries or supply his services on the basis of his scheduled method and rate of operation pursuant to this order during the succeeding 45-day period, for steel products, gray and malleable iron castings, and 30-day period for pig iron, or in excess of a practicable minimum working inventory (as defined in NPA Reg. 1), whichever is less. For the purpose of this section, iron and steel products listed in Table I in which only minor changes or alterations have been effected shall be included in inventory. NPA Reg. 1 will apply to iron and steel products except as modified by this section. Said 45-day limitation does not apply to persons who order structural steel for use in construction (including buildings, bridges and other structures of a like type) and who order it delivered cut to the specifications required for a specific project and who normally keep such steel segregated for the specific project. Instead, no such person may accept delivery of such steel more than 45 days before it is scheduled to be fabricated or, if it is not to be further fabricated, before it is scheduled to be assembled.

SEC. 14. *Ferro-alloys.* (a) As used in this section and in section 17 of this order, "ferro-alloys" means and includes, in such form or condition that the same may be used in the production of alloy iron, steel, or nonferrous products, the following elements and their compounds, and scrap containing usable quantities of any one or more of such elements or of any compound or compounds of any one or more of such elements: Boron, calcium, chromium, cobalt, columbium, manganese, molybdenum, nickel, silicon, tantalum, titanium, tungsten, vanadium, and zirconium.

(b) Every person shall comply with any direction or directions issued by NPA respecting the use, and restrictions and limitations on the use, of any ferro-alloy or alloys in the production of alloy iron, steel, or non-ferrous products.

(c) No person shall receive or accept delivery of any ferro-alloy to be used for alloying purposes at a time when his inventory thereof exceeds, or by acceptance of such delivery would be made to exceed, 45 days' requirements on the basis of his then scheduled method and rate of operation or a practicable minimum working inventory (as defined in NPA Reg. 1), whichever is less. The provisions of this paragraph shall be construed to supersede the inventory limitation provisions of NPA Orders M–10 (Cobalt), M–14 (Nickel), M–30 (Tungsten), M–33 (Molybdenum), and M–49 (Columbium and Tantalum), so far as the inventory limitation provisions of said orders apply to persons having in inventory any ferro-alloy to be used for alloying purposes.

SEC. 15. *Applications for adjustment or exception.* Any person affected by any provision of this order may file a request for adjustment or exception upon the ground that his business operation was commenced during or after the base period, or because any provision otherwise works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or its enforcement against him would not be in the interest of the national defense or in the public interest. In considering requests for adjustment claiming that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of the public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

SEC. 16. *Communications.* All communications concerning this order shall

be addressed to National Production Authority, Washington 25, D. C., Ref: M-1.

SEC. 17. *Reports.* (a) Persons subject to this order shall make such records and submit such reports to the NPA as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139–139F). In accordance with this section, all steel producers are required to report on "NPAF–100—Steel Producers' Monthly Production Directive Report"; and on "NPAF–17—Steel Producers' Monthly Report of Shipments and Past Due Orders," the record of the shipments and past due orders by DO ratings and programs made effective by NPA directives.

(b) Every person shall submit to NPA such reports as it shall require with respect to the receipt, consumption, shipment, and maintenance in inventory of any ferro-alloy as defined in section 14 (a) of this order: *Provided*, That no person shall be required to file, as to any ferro-alloy, any report in addition to such report with respect thereto as he files pursuant to any order of NPA establishing allocation or inventory control over the use of such ferro-alloy.

SEC. 18. *Records.* Each person participating in any transaction covered by this order shall retain in his possession for at least 2 years records of receipts, deliveries, inventories, and use in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

SEC. 19. *Audit and inspection.* All records required by this order shall be made available at the usual place of business where maintained for inspection and audit by duly authorized representatives of the NPA.

SEC. 20. *Violations.* Any person who wilfully violates any provision of this order or any other order or regulation of NPA or who wilfully conceals a material fact or furnishes false information in the course of operation under this order is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person to suspend his privilege of making or receiving further deliveries of materials or using facilities under priority or allocation control and to deprive him of further priorities assistance.

NOTE: All reporting and record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This order as amended shall take effect on June 8, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

TABLE I—IRON AND STEEL PRODUCTS TO WHICH THIS ORDER APPLIES

Part A	Part B				Part C		
	Lead times (days) (For July schedule only—45 days shall be 30 days)				Production limitation, required acceptance (percentage)		
Name of product	Carbon (1)	Low alloy (2)	Stainless (3)	Full alloy (4)	Carbon (including low alloy high strength) (1)	Stainless (2)	Full alloy (3)
Steel (including wrought iron) mill products:							
Ingots	45	75	75	75	15	75	28
Billets, projectile and shell quality	45	75	75	75	[4]	XXXX	------
Blooms, slabs, billets (except projectile and shell quality)	45	75	75	75	[6] 52	[5] 50	[6] 48
Sheet bars	45	75	75	75	10	75	5
Tube rounds or rounds for piercing	45	75	75	75	[5]	100	63
Skelp	45	------	------	------	10	XXXX	XXXX
Wire rods	45	75	90	75	60	------	50
Structural shapes (heavy) standard	45	75	90	90	68	100	------
Structural shapes wide flange	45	75	90	90	68	100	------
Piling—sheet	45	------	------	------	68	XXXX	XXXX
Piling—H bearing	45	------	------	------	68	XXXX	XXXX
Plates—rolled armor	------	------	------	[1]	XXXX	XXXX	[1]
Plates—sheared and U. M	45	75	90	75	[5]	100	25
Plates—strip mill	45	75	90	75	[5]	100	25
Rails—standard (over 60 pounds)	45	------	------	90	90	XXXX	------
Rails—all other	45	------	------	90	90	XXXX	------
Joint bars	45	------	------	90	90	XXXX	------
Tie plates	45	------	------	------	90	XXXX	XXXX
Track spikes	45	------	------	------	90	XXXX	XXXX
Wheels (rolled and forged)	45	------	------	90	95	XXXX	5
Axles	45	------	------	90	95	XXXX	5
Bars—hot rolled, projectile and shell quality	45	75	------	75	[5]	XXXX	------
Bars—hot rolled, other (including light shapes)	[2] 45	[2] 75	90	[2] 75	55	75	50
Bars—reinforcing	45	------	------	------	55	XXXX	XXXX
Bars—cold finished	[2] 75	[2] 105	105	[2] 105	50	75	40
Bars—tool steel	[3] 60	------	------	[3] 90	------	XXXX	------
Standard pipe	45	------	120	------	30	100	------
Oil country goods—seamless	45	------	------	------	110	XXXX	------
Oil country goods—welded	45	------	------	------	110	XXXX	------
Line pipe—seamless	45	------	------	------	35	XXXX	XXXX
Line pipe—welded	45	------	------	------	35	XXXX	XXXX
Mechanical tubing—seamless	60	------	120	120	45	100	60
Mechanical tubing—welded	75	------	120	120	45	100	60
Pressure tubing—seamless	60	------	120	120	70	100	25
Pressure tubing—welded	75	------	120	120	70	100	25
Wire—drawn low carbon (less than 0.45 percent carbon)	45	75	90	------	50	90	25
Wire—drawn high carbon (0.45 percent and over of carbon)	45	75	90	------	60	90	25
Wire—nails and staples	45	------	------	------	25	XXXX	XXXX
Wire—barbed and twisted	45	------	------	------	15	XXXX	XXXX
Wire—woven wire fence	45	------	------	------	10	XXXX	XXXX
Wire—bale ties and/or coiled automatic baler wire	45	------	------	------	10	XXXX	XXXX
Tin mill black plate	45	------	------	------	10	XXXX	XXXX
Tin plate—hot-dipped	45	------	------	------	10	XXXX	XXXX
Terneplate	45	------	------	------	10	XXXX	XXXX
Tin plate—electrolytic	45	------	------	------	10	XXXX	XXXX
Sheets—hot-rolled	45	75	90	75	55	75	5
Sheets—cold-rolled	45	75	105	90	40	75	5
Sheets—Galvanized	45	75	------	------	40	XXXX	------
Sheets—all other coated	45	75	------	------	25	XXXX	XXXX
Sheets—enameling	45	------	------	------	10	XXXX	XXXX
Electrical sheets and strip	[7]	------	------	------	[7]	------	------
Strip—hot-rolled	45	75	90	75	25	50	5
Strip—cold-rolled	45	75	105	90	35	50	------
Steel castings—rough as cast	[11] 60	[11] 90	[11] [12] 90	[10] [11] 90	80	[12] 75	[10] 80
Steel products, fabricated:							
Forgings (rough as forged)	90	120	120	120	30	75	30
Fence posts	45	------	------	------	------	------	------
Wire rope and strand	45	------	105	------	60	75	------
Welded wire mesh	45	------	105	------	35	75	XXXX
Netting	45	------	105	------	10	75	XXXX
Iron products:							
Pig iron (not including iron with more than 6 percent silicon)	45	------	------	------	15	XXXX	XXXX
Malleable castings (rough as cast)	60	------	------	------	65	XXXX	XXXX
Gray iron castings, rough as cast, excluding pipes and fittings	60	90	------	[10] 90	60	XXXX	[10] 65

[1] Subject to direct negotiation by NPA.
[2] If annealed or heat-treated, add an additional 15 days.
[3] If cold finished, add an additional 15 days.
[4] Rounds and squares under 3 inches included in set asides for blooms, slabs, billets. Rounds and squares over 3 inches by production directives.
[5] Of each item.
[6] Such percentage being the total for any combination of these products.
[7] For electrical sheets and strip, use this table:

Lead time	Percentage limitation	Definition
Low grade, 45	25	AISI M50, M43, M36
Medium grade, 45	70	AISI M27, M22, M19
High grade, 60	80	AISI M17, M15, M14 and oriented

[8] By directive.
[9] Rounds and squares under 3 inches included in set asides for bars—hot-rolled, other. Rounds and squares over 3 inches by production directives.
[10] Full alloy for steel and iron castings means all grades not included as stainless or carbon (including low-alloy) steel and iron castings.
[11] Lead times apply to unmachined castings after approval of patterns for production.
[12] All castings containing 8 percent or more of alloying metals are to be considered "stainless."

TABLE II—MINIMUM ORDERS THAT MAY BE PLACED ON STEEL MILLS, STEEL AND IRON FOUNDRIES, STEEL FORGE SHOPS AND MERCHANT PIG IRON PRODUCERS FOR THE PRODUCTS SPECIFIED

(Special grades, shapes, specifications, processes, and similar factors must be handled by negotiation)

Name of product	Minimum quantity for each size and grade of any item for shipment at any one time to any one destination
STEEL MILL PRODUCTS	
Carbon and low-alloy steel:	
Ingots, blooms, billets, slabs, and tube rounds, sheet bars, skelp, etc., rerolling quality.	25 net tons.
Blooms, billets, and slabs, forging quality	Product of 1 ingot.
Wire rods, hot-rolled	5 net tons.
Structural shapes	5 net tons.
Plates:	
Rolled armor	By negotiation.[1]
Continuous strip mill production	10 net tons.
Sheared, universal, or bar mill production	3 net tons.
Rails, wheels, and axles	5 net tons.
Track accessories (joint bars, tie plates, track spikes)	5 net tons.
Bars, hot-rolled:	
Projectile and shell quality	Product of 1 heat.[2]
Round bars up to and including 3" and squares, hexagons, half rounds, ovals, etc., of approximately equivalent sectional area.	5 net tons.
Round and square bars over 3" to but not including 8"	15 net tons.
Bar size shapes (angles, tees, channels and zees under 3")	5 net tons.
Bars, cold finished	3 net tons.
Bars, tool steel	500 pounds.
Pipe, published carload minimum (mixed sizes and grades)	
Tubing:	
Seamless cold-drawn (O. D. in inches):	
Up to ¾" inclusive	1,000 feet.
Over ¾" to 1½" inclusive	800 feet.
Over 1½" to 3" inclusive	600 feet.
Over 3" to 6" inclusive	400 feet.
Over 6"	250 feet.
Seamless hot-rolled	By negotiation.[1]
Welded	By negotiation.[1]
Wire rods. (See above.)	
Wire, drawn, for further fabrication and manufacturing:	
Low-carbon	1 net ton.
High-carbon (0.40 carbon and higher):	
0.0475" and heavier	1 net ton.
Under 0.0475" to 0.021" inclusive	1,000 pounds.
Under 0.021"	500 pounds.
Wire merchant trade products, assorted	5 net tons.
Tin mill products—any 1 gauge	5,000 pounds.
Sheet, hot- and cold-rolled	5 net tons.
Strip, hot- and cold-rolled	3 net tons.
Stainless steel: No minimum on standard grades and sizes. For unusual grades or sizes the minimum order is to be worked out by negotiation.[1]	
Full alloy steel:	
Ingots	Product of 1 heat.[2]
Billet, projectile and shell quality	By negotiation.[1]
STEEL MILL PRODUCTS—continued	
Full alloy steel—Continued	
Blooms, slabs, billets (except projectile and shell quality) tube rounds, sheet bars, etc.:	
7" square (or equivalent cross sectional area) and under	5 net tons.
Larger than 7" square (or equivalent cross sectional area)	10 net tons.
Both of the above may be modified because of a mill's ingot size and/or rolling schedules.	
Wire rods	5 net tons.
Structural shapes	By negotiation.[1]
Plates:	
Rolled armor	By negotiation.[1]
Other, whether rolled on continuous strip, sheared, universal or bar mill. (A steel producer need not accept an order unless the total quantity ordered is sufficient to make a heat of steel or unless ingots or slabs are available in stock or unless similar material is regularly being produced.)	10 net tons.
Rails	By negotiation.[1]
Wheels	By negotiation.[1]
Axles	By negotiation.[1]
Bars, hot-rolled, projectile and shell quality	By negotiation.[1]
Bars, hot-rolled, other:	
Rounds and squares 3½" and smaller	5 net tons.
Rounds and squares larger than 3½"	By negotiation.[1]
Hexagons and flats	5 net tons.
Bars, cold-finished	3 net tons.
Bars, tool steel	500 pounds.
Oil-country goods	By negotiation.
Mechanical tubing	5 net tons.
Pressure tubing	By negotiation.[1]
Sheet and strip	By negotiation.
STEEL CASTINGS (UNMACHINED)	
High alloy and stainless (heat and corrosion resisting)	[3].
Carbon and low-alloy	[3].
STEEL PRODUCTS, FABRICATED	
Forgings (rough as forged)	By negotiation.[1]
Wire rope and strand	1,000-foot lengths.
Welded wire mesh	Full rolls of manufacturers' standard stock sizes.
Netting	Full rolls of manufacturers' standard stock sizes.
IRON PRODUCTS	
Pig iron	Car load.
Gray iron castings, excluding soil and pressure pipe and fittings (unmachined)	[3].
Malleable castings (unmachined)	[3].

[1] "By negotiation" means negotiation between the mill and its customer. If no acceptable arrangements are worked out, the NPA should be notified.
[2] "1 heat" means one batch of metal made in 1 furnace.
[3] 2,000 pounds or less from any 1 pattern or mold, or a minimum production run by the producing foundry even though the delivery from such minimum run may cause the consumers' inventory to exceed the 45-day minimum stated in section 13.

[F. R. Doc. 51-6831; Filed, June 8, 1951; 3:01 p. m.]

Chapter XV—Federal Reserve System

[Regulation W, Interpretation 38]

REG. W—CONSUMER CREDIT

INT. 38—PRE-EFFECTIVE DATE "BALLOON" NOTES OR PAYMENTS

The Board has considered certain questions concerning instalment credits involving so-called "balloon" notes or payments that were written before September 18, 1950, the effective date of Regulation W. In a typical case of the kind, there would be 11 notes followed by a 12th "balloon" note which may be in an amount several times the amount of each of the preceding notes. It appears that in most cases, because of the special nature of such financing, it was necessarily anticipated that the "balloon" note or payment written before September 18, 1950, would be refinanced when due so that the future instalment payments of the obligor would be approximately in the same amounts as the earlier payments.

In the circumstances, the Board is of the view that it may be presumed that arrangements for such refinancing were made between the parties at the time of the original transaction, and that section 8 (h) of the regulation permits the carrying out of any such arrangement.

This interpretation supersedes the interpretation published in 15 F. R. 7756 (12 CFR, 222.117) on the same subject.

(Sec. 5, 40 Stat. 415, as amended, sec. 601, Pub. Law 774, 81st Cong.; 50 U. S. C. App. 5, E. O. 8843, Aug. 9, 1941, 6 F. R. 4035; 3 CFR, 1941 Supp.)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 51-6730; Filed, June 11, 1951; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 34—CLASSIFICATION AND RATES OF POSTAGE

REVISION OF RATES OF POSTAGE ON CERTAIN FOURTH-CLASS MAIL

Correction

In Federal Register Document 51-6483, published at page 5278 of the issue for Tuesday, June 5, 1951, the following corrections are made in § 34.76:

1. In the table under paragraph (c), the rate for 11 pounds in Zone 4 should read ".67".

2. Paragraph (d) (1) should read:

(d) *Exceptions.* (1) In the first or second zone, where the distance by the shortest regular practicable mail route is 300 miles or more, the rate shall be the same as for the third zone.

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Ex Parte MC–5]

PART 174—SURETY BONDS AND POLICIES OF INSURANCE

Subchapter D—Freight Forwarders

[Ex Parte 159]

PART 405—SURETY BONDS AND POLICIES OF INSURANCE

MOTOR CARRIER AND FREIGHT FORWARDER INSURANCE FOR PROTECTION OF PUBLIC

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 5th day of June A. D. 1951.

It appearing, that the heading of column 3 of the table under § 174.2 (a) *Motor carriers, bodily injury liability, property damage liability,* in the Commission's order of April 13, 1951, (16 F. R. 3587) inadvertently specified $5,000 as a maximum for bodily injuries to or death of one person instead of $10,000:

It is ordered, That paragraph (a) *Motor carriers; bodily injury liability, property damage liability,* of § 174.2 should be amended by inserting "$10,000" in the heading for column (3) of the table in lieu of $5,000. As amended this section should read:

§ 174.2 *Insurance, minimum amounts.* The minimum amounts referred to in § 174.1 are hereby prescribed as follows:

(a) *Motor carriers; bodily injury liability, property damage liability.*

(1) Kind of equipment	(2) Limit for bodily injury to or death of person	(3) Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $10,000 for bodily injuries to or death of one person)	(4) Limit for loss or damage in any one accident to property of others (excluding cargo)
Passenger equipment (seating capacity):			
7 passengers or less	$10,000	$30,000	$5,000
8 to 12 passengers inclusive	10,000	40,000	5,000
13 to 20 passengers, inclusive	10,000	60,000	5,000
21 to 30 passengers, inclusive	10,000	80,000	5,000
31 passengers or more	10,000	100,000	5,000
Freight equipment: All motor vehicles used in the transportation of property	10,000	20,000	5,000

It is further ordered, That §§ 174.2 (16 F. R. 3587) and 405.3 (16 F. R. 3588) as amended by order of April 13, 1951, and as further amended herein, shall be effective on and after October 31, 1951.

Notice of this order shall be given to the general public by deposting a copy hereof in the office of the Secretary of the Commission at Washington, D. C., and by filing copies with the Director of the Division of the Federal Register.

By the Commission, Division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51–6744; Filed, June 11, 1951; 8:50 a. m.]

PROPOSED RULE MAKING

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 9]

[Docket No. 9990]

AERONAUTICAL SERVICES

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of §§ 9.312 (h), 9.321 (b) and 9.411 (a) of Part 9, the Commission's rules and regulations governing Aeronautical Services in order to provide certain frequencies within the band 118.1–126.7 Mc for use by aircraft and airdrome control stations.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to amend Part 9, the Commission's rules and regulations governing Aeronautical Services in order to provide certain frequencies within the band 118.1–126.7 Mc for use by aircraft and airdrome control stations. The proposal will make available for assignment additional frequencies for use by airdrome control stations and frequencies for use by aircraft for air traffic control operations.

3. The purpose of this proposal is to enable all aircraft, regardless of type, which operate in instrument weather to be equipped with the same frequencies in order to facilitate the control of traffic by airdrome control stations. This proposal parallels the recommendations which the Radio Technical Commission for Aeronautics made on this subject with a view to meeting current operational needs in a manner which is compatible with present and future planning.

5. The authority for this amendment, the text of which appears below, is contained in sections 4 (i), 303 (b), (c), (d) and (r) of the Communications Act of 1934, as amended.

6. Any interested persons may file with the Commission on or before July 16, 1951, a written statement or brief in support, opposition, or for modification of the proposed amendment. Within fifteen days from the last day for filing of the original comments or briefs, comments or briefs in reply thereto may be filed. The Commission will consider such comments before taking action in this matter. If any comments will appear to warrant the holding of an oral argument or hearing notice of the time and place therefor will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules, original and fourteen copies of all statements, briefs or comments shall be furnished to the Commission.

Adopted: June 6, 1951.

Released: June 7, 1951.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, *Secretary.*

1. Amend § 9.312 (h) to read as follows:

(h)	118.1 A	119.9	123.7	125.5
	118.3	120.1	123.9	125.7
	118.5	120.3 B	124.1	125.9
	118.7	120.5	124.3	126.1 E
	118.9	120.7	124.5	126.3 E
	119.1	120.9	124.7	126.5
	119.3	121.1	124.9	126.7 F
	119.5	121.3 C	125.1	
	119.7	121.7 D	125.3	

These frequencies are available for air traffic control operations.

A Primarily for international operations.

B Primarily for communications with Air Route Traffic Control centers.

C For communication with low activity airdrome control stations.

D Available on a secondary basis to its primary use as an airport utility frequency.

E Available on a non-interference basis to government use of 126.18 Mc.

F For communication with Interstate Airway Communication Stations.

2. Delete footnote 3A on § 9.312 (h) and footnote 4 on § 9.321 (b).

3. Amend § 9.411 (a) to read as follows:

(a)	118.1 A	119.9	123.7	125.5
	118.3	120.1	123.9	125.7
	118.5	120.3 B	124.1	125.9
	118.7	120.5	124.3	126.1 E
	118.9	120.7	124.5	126.3 E
	119.1	120.9	124.7	
	119.3	121.1	124.9	
	119.5	121.3 C	125.1	
	119.7	121.7 D	125.3	

A Primarily for international operations.

B Primarily for assignment to Air Route Traffic Control centers.

C For assignment to low activity airdrome control stations only.

D Available on a secondary basis to its primary use as an airport utility frequency.

E Available on a non-interference basis to government use of 126.18 Mc.

[F. R. Doc. 51-6761; Filed, June 11, 1951; 8:58 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR, Part 408]

EMPLOYMENT TAXES UNDER FEDERAL INSURANCE CONTRIBUTIONS ACT

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1429 and 3791 of the Internal Revenue Code (53 Stat. 178, 467; 26 U. S. C. 1429, 3791) and other provisions of the internal revenue laws and in subchapter A of chapter 9 of the Internal Revenue Code (53 Stat. 175; 26 U. S. C., c. 9, subc. A), as last amended by sections 201 to 205, both inclusive, of the Social Security Act Amendments of 1950 (64 Stat. 524).

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

Subchapter D—Employment Taxes

[Regulations 128]

PART 408—EMPLOYEE TAX AND EMPLOYER TAX UNDER THE FEDERAL INSURANCE CONTRIBUTIONS ACT; APPLICABLE ON AND AFTER JANUARY 1, 1951

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AUTHORITY: §§ 408.101 to 408.910 issued under 53 Stat. 178, 467; 26 U. S. C. 1429, 3791.

SUBPART A—INTRODUCTORY PROVISIONS

§ 408.101 *Introduction.* These regulations, which constitute Part 408 of Title 26 of the Code of Federal Regulations, are prescribed under the Federal Insurance Contributions Act (subchapter A, chapter 9, Internal Revenue Code). The applicable provisions of the act, as well as certain applicable provisions of other internal-revenue laws of particular importance, will be found in the appropriate places in, and are to be read in connection with, the regulations in this part. References to sections of law are references to the Federal Insurance Contributions Act, unless otherwise expressly indicated. Inasmuch as these regulations constitute Part 408 of Title 26 of the Code of Federal Regulations, each section of the regulations bears a number commencing with 408 and a decimal point. References to sections not preceded by "408." are references to sections of law.

§ 408.102 *Scope of regulations*—(a) *Taxes with respect to wages paid after 1950.* The regulations in this part relate to the employee tax and employer tax with respect to wages paid and received on or after January 1, 1951, imposed by the Federal Insurance Contributions Act.

(b) *Additional subjects covered*—(1) *Adjustments, settlements, and claims.* The regulations in this part relate to adjustments, settlements, and claims for refund, credit, or abatement, made in respect of the taxes with respect to wages paid and received on or after January 1, 1951.

(2) *Identification of taxpayers.* The regulations in this part also relate to the use after December 31, 1950, of account numbers and identification numbers assigned to employees and employers under title VIII of the Social Security Act or the Federal Insurance Contributions Act in force before, on, or after January 1, 1951, and to applications for and assignment of such numbers under the Federal Insurance Contributions Act in force after December 31, 1950.

(3) *Employment.* In addition to employment in the case of remuneration

therefor paid and received on or after January 1, 1951, the regulations in this part also relate to employment performed on or after such date in the case of remuneration therefor paid and received prior to such date.

§ 408.103 *Extent to which the regulations in this part supersede Regulations 106 and Treasury Decision 5823.* The regulations in this part, with respect to the subject matter within the scope thereof, supersede:

(a) Regulations 106, approved February 24, 1940 (Part 402 of this chapter), as amended, relating to the employees' tax and employers' tax under the Federal Insurance Contributions Act in force prior to January 1, 1951; and

(b) Treasury Decision 5823, approved December 27, 1950 (Part 408 of this chapter), relating to the waiver of exemption from taxes under the Federal Insurance Contributions Act by an organization exempt from income tax under section 101 (6) of the Internal Revenue Code.

SUBPART B—DEFINITIONS

SECTION 1432 OF THE ACT—FEDERAL INSURANCE CONTRIBUTIONS ACT

This subchapter [subchapter A, chapter 9, Internal Revenue Code] may be cited as the "Federal Insurance Contributions Act". (Sec. 1432, I. R. C., as added by sec. 607, Social Security Act Amendments of 1939, 53 Stat. 1387.)

SECTION 2 OF THE ACT OF FEBRUARY 10, 1939 (53 STAT. 1)

INTERNAL REVENUE CODE

This act and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C.".

SECTION 1426 OF THE ACT

LEFINITIONS

When used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to $3,600 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to $3,600 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical or hospitalization expenses in connection with sickness or accident disability, or (D) death;

(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(5) Any payment made to, or on behalf of an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6);

(6) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400, or (B) of any payment required from an employee under a State unemployment compensation law;

(7) (A) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in the quarter for such service is less than $50 or the employee is not regularly employed by the employer in such quarter of payment. For the purposes of this subparagraph, an employee shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during the quarter the employee performs for the employer for some portion of the day domestic service in a private home of the employer, or (ii) the employee was regularly employed (as determined under clause (i)) by the employer in the performance of such service during the preceding calendar quarter. As used in this subparagraph, the term "domestic service in a private home of the employer" does not include service described in subsection (h) (5);

(8) Remuneration paid in any medium other than cash for agricultural labor;

(9) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of sixty-five, if he did not work for the employer in the period for which such payment is made; or

(10) Remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50.

(b) *Employment.* The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (i) of this section); except that, in the case of service performed after 1950, such term shall not include—

(1) (A) Agricultural labor (as defined in subsection (h) of this section) performed in any calendar quarter by an employee, unless the cash remuneration paid for such labor (other than service described in subparagraph (B)) is $50 or more and such labor is performed for an employer by an individual who is regularly employed by such employer to perform such agricultural labor. For the purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(i) such individual performs agricultural labor (other than service described in subparagraph (B)) for such employer on a full-time basis on sixty days during such quarter, and

(ii) the quarter was immediately preceded by a qualifying quarter.

For the purposes of the preceding sentence, the term "qualifying quarter" means (I) any quarter during all of which such individual was continuously employed by such employer, or (II) any subsequent quarter which meets the test of clause (i) if, after the last quarter during all of which such individual was continuously employed by such employer, each intervening quarter met the test of clause (i). Notwithstanding the preceding provisions of this subparagraph, an individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of clauses (i) and (ii)) by such employer during the preceding calendar quarter.

(B) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton;

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

(3) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter. As used in this paragraph, the term "service not in the course of the employer's trade or busi-

ness" does not include domestic service in a private home of the employer and does not include service described in subsection (h) (5);

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if the individual is employed on and in connection with such vessel or aircraft when outside the United States;

(6) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 by virtue of any provision of law which specifically refers to such section in granting such exemption;

(7) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 on December 31, 1950, except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration; or

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department;

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner, of or to the Congress;

(ii) in the legislative branch;

(iii) in the field service of the Post Office Department unless performed by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment;

(iv) in or under the Bureau of the Census of the Department of Commerce by temporary employees employed for the taking of any census;

(v) by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis;

(vi) by any individual as an employee receiving nominal compensation of $12 or less per annum;

(vii) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(viii) by any individual as a consular agent appointed under authority of section 551 of the Foreign Service Act of 1946 (22 U. S. C., sec. 951);

(ix) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(x) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(xi) by any individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(xii) as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(xiii) by an individual to whom the Civil Service Retirement Act of 1930 does not apply because such individual is subject to another retirement system;

(8) Service (other than service which, under subsection (k), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions;

(9) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(B) Service performed in the employ of a religious, charitable, educational, or other organization exempt from income tax under section 101 (6), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (1), is in effect if such service is performed by an employee (i) whose signature appears on the list filed by such organization under subsection (1), or (ii) who became an employee of such organization after the calendar quarter in which the certificate was filed;

(10) Service performed by an individual as an employee or employee representative as defined in section 1532;

(11) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101, if the remuneration for such service is less than $50;

(B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;

(12) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(13) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(15) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(16) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

(17) Service performed in the employ of an international organization.

(c) *Included and excluded service.* If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by pargaraph (10) of subsection (b).

(d) *Employee.* The term "employee" means—

(1) any officer of a corporation; or

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him,

if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed.

(e) *State, etc.* (1) The term "State" includes Alaska, Hawaii, the District of Columbia, and the Virgin Islands; and on and after the effective date specified in section 3810 such term includes Puerto Rico.

(2) United States. The term "United States" when used in a geographical sense includes the Virgin Islands; and on and after the effective date specified in section 3810 such term includes Puerto Rico.

(3) Citizen. An individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be considered, for the purposes of this section, as a citizen of the United States prior to the effective date specified in section 3810.

(f) *Person.* The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(g) *American vessel and aircraft.* The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term "American aircraft" means an aircraft registered under the laws of the United States.

(h) *Agricultural labor.* The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(i) *American employer.* The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State.

(j) *Computation of wages in certain cases.* For purposes of this subchapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this subchapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B).

(k) *Covered transportation service*—(1) *Existing transportation systems—General rule.* Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) *Existing transportation system—Cases in which no transportation employees, or only certain employees, are covered.* Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment (including as employment service covered by an agreement under section 218 of the Social Security Act) in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) *Definitions.* For the purposes of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter or was covered by an agreement made pursuant to section 218 of the Social Security Act and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State,

or (iii) a State and one or more of its political subdivisions.

(1) *Exemption of religious, charitable, etc., organizations*—(1) *Waiver of exemption by organization.* An organization exempt from income tax under section 101 (6) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this subchapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees and that at least two-thirds of its employees concur in the filing of the certificate. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. Such list may be amended, at any time prior to the expiration of the first month following the first calendar quarter for which the certificate is in effect, by filing with such official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this subchapter. The certificate shall be in effect (for the purposes of subsection (b) (9) (B) and for the purposes of section 210 (a) (9) (B) of the Social Security Act) for the period beginning with the first day following the close of the calendar quarter in which such certificate is filed, but in no case shall such period begin prior to January 1, 1951. The period for which the certificate is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving two years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than eight years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this subchapter.

(2) *Termination of waiver period by Commissioner.* If the Commissioner finds that any organization which filed a certificate pursuant to this subsection has failed to comply substantially with the requirements of this subchapter or is no longer able to comply therewith, the Commissioner shall give such organization not less than sixty days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Commissioner by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Federal Security Administrator.

(3) *No renewal of waiver.* In the event the period covered by a certificate filed pursuant to this subsection is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection. (Sec. 1426, I. R. C., as amended by sec. 606, Social Security Act Amendments of 1939, 53 Stat. 1383; secs. 203 (a), (d), 204, 205, Social Security Act Amendments of 1950, 64 Stat. 525, 528, 536.)

SECTION 3797 (a) AND (b) OF THE INTERNAL REVENUE CODE

DEFINITIONS

(a) When used in this title [Internal Revenue Code] * * *—

* * * * *

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

* * * * *

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

* * * * *

(8) *Shareholder.* The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

* * * * *

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

* * * * *

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act [Title I, Act of Dec. 29, 1945, 59 Stat. 669]. (Sec. 3797 (a), I. R. C., as amended by sec. 4 (1), Act of Dec. 29, 1945, 59 Stat. 671.)

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

§ 408.201 *General definitions and use of terms.* As used in the regulations in this part—

(a) The terms defined in the above provisions of law shall have the meanings so assigned to them.

(b) "Social Security Act" means the act approved August 14, 1935 (49 Stat. 620), as amended.

(c) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., Part 1), entitled "An Act To consolidate and codify the internal revenue laws of the United States," as amended.

(d) "Social Security Act Amendments of 1950" means the act approved August 28, 1950 (64 Stat. 477).

(e) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Internal Revenue Code, as amended.

(f) "Act" means the Federal Insurance Contributions Act, as defined in this section.

(g) "Regulations 91" means the regulations approved November 9, 1936 (Part 401 of this chapter), as amended, relating to the employees' tax and the employers' tax under title VIII of the Social Security Act, and such regulations as made applicable to subchapter A of chapter 9 and other provisions of the Internal Revenue Code by Treasury Decision 4835, approved February 11, 1939 (26 CFR, Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code.

(h) "Regulations 106" means the regulations approved February 24, 1940 (Part 402 of this chapter), as amended, relating to the employees' tax and the employers' tax under the Federal Insurance Contributions Act in force prior to January 1, 1951.

(i) "Person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(j) "Calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(k) "Tax" means the employee tax or the employer tax as respectively defined in this section, or both, except that the term when used in §§ 408.606, 408.607 (b), and 408.909 includes also the income tax collected at source on wages under section 1622 of the Internal Revenue Code.

(l) "Employee tax" means the tax imposed by section 1400 of the Act.

(m) "Employer tax" means the tax imposed by section 1410 of the Act.

(n) "Identification number" means the identifying number of an employer assigned, as the case may be, under the Federal Insurance Contributions Act in force before, on, or after January 1, 1951, or under title VIII of the Social Security Act.

(o) "Account number" means the identifying number of an employee assigned, as the case may be, under the Federal Insurance Contributions Act in force before, on, or after January 1, 1951, or under title VIII of the Social Security Act.

(p) "Social Security Administration" means the operating branch in the Federal Security Agency established by Agency Order No. 3, dated July 16, 1946 (11 F. R. 7942), to perform the functions formerly vested in the Social Security Board.

(q) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

SECTION 1426 (b) OF THE ACT

EMPLOYMENT

The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed * * *

* * * * *

(Sec. 1426 (b), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 528.)

§ 408.202 *Employment prior to January 1, 1951.* (a) Under the provisions of section 1426 (b) of the Federal Insurance Contributions Act, as amended, effective January 1, 1951, by section 204 (a) of the Social Security Act Amendments of 1950,

services performed after December 31, 1936, and prior to January 1, 1951, constitute employment if such services were employment under the law applicable to the period in which they were performed.

(b) The taxes to which the regulations in this part relate apply with respect to remuneration paid on or after January 1, 1951, for services performed prior to such date, as well as for services performed on or after such date, to the extent that the remuneration and services constitute wages and employment. (See §§ 408.226 and 408.227, relating to wages.)

(c) Whether services performed after December 31, 1936, and prior to January 1, 1940, constitute employment within the meaning of the regulations in this part shall be determined in accordance with the applicable provisions of law and of Part 401 of this chapter (Regulations 91).

(d) Whether services performed after December 31, 1939, and prior to January 1, 1951, constitute employment within the meaning of the regulations in this part shall be determined in accordance with the applicable provisions of law and of Part 402 of this chapter (Regulations 106).

SECTION 1426 (b) OF THE ACT

EMPLOYMENT

The term "employment" means * * * any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee for an American employer (as defined in subsection (i) of this section); except that, in the case of service performed after 1950, such term shall not include—

* * * * *

(Sec. 1426 (b), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 528.)

SECTION 3797 (a) (9) OF THE INTERNAL REVENUE CODE

UNITED STATES

The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

SECTION 1426 (e) OF THE ACT

STATE AND UNITED STATES

(1) The term "State" includes Alaska, Hawaii, the District of Columbia, and the Virgin Islands; and on and after the effective date specified in section 3810 such term includes Puerto Rico.

(2) United States.—The term "United States" when used in a geographical sense includes the Virgin Islands; and on and after the effective date specified in section 3810 such term includes Puerto Rico.

* * * * *

(Sec. 1426 (e), I. R. C., as amended by sec. 204 (b), Social Security Act Amendments of 1950, 64 Stat. 532.)

SECTION 3810 OF THE INTERNAL REVENUE CODE

EFFECTIVE DATE IN CASE OF PUERTO RICO

If the Governor of Puerto Rico certifies to the President of the United States that the legislature of Puerto Rico has, by concurrent resolution, resolved that it desires the extension to Puerto Rico of the provisions of title II of the Social Security Act, the effective date referred to in sections 1426 (e) * * * shall be January 1 of the first calendar year which begins more than ninety days after the date on which the President receives such certification. (Sec. 3810, I. R. C., as added by sec. 208 (b), Social Security Act Amendments of 1950, 64 Stat. 543.)

[NOTE: A certificate of the Governor of Puerto Rico made in conformity with section 3810 of the Internal Revenue Code was received by the President of the United States on September 28, 1950. Accordingly, the effective date refererd to in section 1426 (e) of the Internal Revenue Code is January 1, 1951.]

SECTION 1426 (g) OF THE ACT

AMERICAN VESSEL AND AIRCRAFT

The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and the term "American aircraft" means an aircraft registered under the laws of the United States. (Sec. 1426 (g), I. R. C., as added by sec. 606, Social Security Act Amendments of 1939, 53 Stat. 1383, and as amended by sec. 204 (c), (g), Social Security Act Amendments of 1950, 64 Stat. 532, 536.)

SECTION 1426 (i) OF THE ACT

AMERICAN EMPLOYER

The term "American employer" means an employer which is (1) the United States or any instrumentality thereof, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State. (Sec. 1426 (i), I. R. C., as added by sec. 1 (b) (1), Act of Mar. 24, 1943, 57 Stat. 46, and as amended by sec. 204 (e), (g), Social Security Act Amendments of 1950, 64 Stat. 533, 536.)

SECTION 1420 (e) OF THE ACT

FEDERAL SERVICE

In the case of the taxes imposed by this subchapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, the determination whether an individual has performed service which constitutes employment as defined in section 1426 * * * shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. * * * The provisions of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. (Sec. 1420 (e), I. R. C., as added by sec. 202 (b), (d), Social Security Act Amendments of 1950, 64 Stat. 524, 525.)

§ 408.203 *Employment after December 31, 1950*—(a) *In general.* Whether services performed on or after January 1, 1951, constitute employment is determined under section 1426 (b) of the act. This section of the regulations in this part, and §§ 408.204 and 408.205 (relating to who are employees and employers), § 408.206 (relating to excepted services in general), § 408.207 (relating to included and excluded services), and §§ 408.208 to 408.225, inclusive (relating to certain classes of excepted services), apply with respect only to services performed on or after January 1, 1951. (For provisions relating to the circumstances under which services which do not constitute employment are nevertheless deemed to be employment, and relating to the circumstances under which services which constitute employment are nevertheless deemed not to be employment, see § 408.207. For provisions relating to services performed prior to January 1, 1951, see § 408.202.)

(b) *Services performed within the United States.* (1) Services performed on or after January 1, 1951, within the United States, that is, within any of the several States, the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico, by an employee for his employer, unless specifically excepted by section 1426 (b) of the act, constitute employment within the meaning of the act. Services performed outside the United States, that is, outside the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico (except certain services performed on or in connection with an American vessel or American aircraft, or services performed by a citizen of the United States as an employee for an American employer—see paragraph (c) of this section), do not constitute employment.

(2) With respect to services performed within the United States, the place where the contract of service is entered into and the citizenship or residence of the employee or of the employer are immaterial. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment within the meaning of the act.

(c) *Services performed outside the United States*—(1) *On or in connection with an American vessel or American aircraft.* (i) Services performed on or after January 1, 1951, by an employee for an employer "on or in connection with" an American vessel or American aircraft outside the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico) constitute employment, if:

(*a*) The employee is also employed "on and in connection with" such vessel

or aircraft when outside the United States; and

(*b*) The services are performed under a contract of service, between the employee and the employer, which is entered into within the United States; or during the performance of the contract under which the services are performed and while the employee is employed on the vessel or aircraft it touches at a port within the United States; and

(*c*) The services are not excepted under section 1426 (b) of the act. (See particularly § 408.223, relating to fishing.)

(ii) An employee performs services on and in connection with the vessel or aircraft if he performs services on such vessel or aircraft which are also in connection with the vessel or aircraft. Services performed on the vessel by employees as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(iii) If services are performed by an employee "on and in connection with" an American vessel or American aircraft when outside the United States and conditions (i) (*b*) and (*c*) of this subparagraph are met, then the services of that employee performed on or in connection with the vessel or aircraft constitute employment. The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(iv) Services performed by a member of the crew or other employee whose contract of service is not entered into within the United States, and during the performance of which and while the employee is employed on the vessel or aircraft it does not touch at a port within the United States, do not constitute employment under this subparagraph, notwithstanding services performed by other members of the crew or other employees on or in connection with the vessel or aircraft may constitute employment.

(v) A vessel includes every description of watercraft, or other contrivance, used as a means of transportation on water. The term "American vessel" means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico). As used herein, a citizen of the United States includes a citizen of the Virgin Islands or of Puerto Rico.

(vi) An aircraft includes every description of craft, or other contrivance, used as a means of transportation through the air. The term "American aircraft" means any aircraft registered under the laws of the United States.

(vii) In the case of an aircraft, the term "port" means an airport. An airport means an area on land or water used regularly by aircraft for receiving or discharging passengers or cargo.

(viii) With respect to services performed outside the United States on or in connection with an American vessel or American aircraft, the citizenship or residence of the employee is immaterial, and the citizenship or residence of the employer is material only in case it has a bearing in determining whether a vessel is an American vessel.

(2) *By a citizen of the United States as an employee for an American employer.* (i) Services performed on or after January 1, 1951, outside the United States by a citizen of the United States as an employee for an American employer constitute employment provided the services are not specifically excepted under section 1426 (b) of the act.

(ii) The term "citizen of the United States" includes a citizen of the Virgin Islands or of Puerto Rico.

(iii) The term "American employer" means an employer which is (*a*) the United States or any instrumentality thereof, (*b*) an individual who is a resident of the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico), (*c*) a partnership, if two-thirds or more of the partners are residents of the United States, (*d*) a trust, if all of the trustees are residents of the United States, or (*e*) a corporation organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico).

SECTION 1426 (d) OF THE ACT

EMPLOYEE

(d) *Employee.* The term "employee" means—

(1) any officer of a corporation; or

(2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

(3) any individual (other than an individual who is an employee under paragraph (1) or (2) of this subsection) who performs services for remuneration for any person—

(A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;

(B) as a full-time life insurance salesman;

(C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed; or

(D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;

if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed. (Sec. 1426 (d), I. R. C., as amended by sec. 205, Social Security Act Amendments of 1950, 64 Stat. 536.)

§ 408.204 *Who are employees*—(a) *In general.* (1) The statutory definition of the term "employee", applicable with respect to services performed on or after January 1, 1951, contains three separate and independent tests for determining who are employees. Paragraphs (b), (c), and (d) of this section relate to the respective tests. Paragraph (b) relates to the test for determining whether an officer of a corporation is an employee of the corporation. Paragraph (c) relates to the test for determining whether an individual is an employee under the usual common law rules. Paragraph (d) relates to the test for determining which individuals in certain occupational groups who are not employees under the usual common law rules are included as employees. If an individual is an employee under any one of the tests, he is to be considered an employee for purposes of the regulations in this part whether or not he is an employee under any of the other tests.

(2) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

(3) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other superior employees are employees.

(4) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act (see § 408.203).

(b) *Corporate officers.* Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor

services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is not considered to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

(c) *Common law employees.* (1) Every individual is an employee if under the usual common law rules the relationship between him and the person for whom he performs services is the legal relationship of employer and employee.

(2) Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common law rules. Individuals such as physicians, lawyers, dentists, veterinarians, construction contractors, public stenographers, and auctioneers, engaged in the pursuit of an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

(3) Whether the relationship of employer and employee exists under the usual common law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(d) *Special classes of employees.* (1) In addition to individuals who are employees under paragraph (b) or (c) of this section, other individuals are employees if they perform services for remuneration under certain prescribed circumstances in the following occupational groups:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for his principal;

(ii) As a full-time life insurance salesman;

(iii) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed; or

(iv) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(2) In order for an individual to be an employee under this paragraph, the individual must perform services in an occupation falling within one of the enumerated groups. If the individual does not perform services in one of the designated occupational groups, he is not an employee under this paragraph. An individual who is not an employee under this paragraph may nevertheless be an employee under paragraph (b) or (c) of this section. The language used to designate the respective occupational groups relates to fields of endeavor in which particular designations are not necessarily in universal use with respect to the same service. The designations are addressed to the actual services without regard to any technical or colloquial labels which may be attached to such services. Thus, a determination whether services fall within one of the designated occupational groups depends upon the facts of the particular situation.

(3) The factual situations set forth below are illustrative of some of the individuals falling within each of the above enumerated occupational groups. The illustrative factual situations are as follows:

(i) *Agent-driver or commission-driver.* This occupational group includes agent-drivers or commission-drivers who are engaged in distributing meat or meat products, vegetables or vegetable products, fruit or fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for their principals. An agent-driver or commission-driver includes an individual who operates his own truck or the truck of the person for whom he performs services, serves customers designated by such person as well as those solicited on his own, and whose compensation is a commission on his sales or the difference between the price he charges his customers and the price he pays to such person for the product or service.

(ii) *Full-time life insurance salesman.* An individual whose entire or principal business activity is devoted to the solicitation of life insurance or annuity contracts, or both, primarily for one life insurance company is a full-time life insurance salesman. Such a salesman ordinarily uses the office space provided by the company or its general agent, and stenographic assistance, telephone facilities, forms, rate books, and advertising materials are usually made available to him without cost. An individual who is engaged in the general insurance business under a contract or contracts of service which do not contemplate that the individual's principal business activity will be the solicitation of life insurance or annuity contracts, or both, for one company, or any individual who devotes only part time to the solicitation of life insurance contracts, including annuity contracts, and is principally engaged in other endeavors, is not a full-time life insurance salesman.

(iii) *Home workers.* This occupational group includes a worker who performs services off the premises of the person for whom the services are performed, according to specifications furnished by such person, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico) in which such services are performed. The requirement that the performance of services by a home worker be subject to licensing laws in the State in which the services are performed is met by such State requiring either a home-work license on the part of the person for whom the services are performed or a home-work certificate on the part of the individual who performs the services. For provisions relating to remuneration which constitutes wages in the case of a home worker, see § 408.227 (j).

(iv) *Traveling or city salesman.* (*a*) This occupational group includes a city or traveling salesman who is engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person or persons) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. An agent-driver or commission-driver is not within this occupational group. City or traveling salesmen who sell to retailers or to the others specified, operate off the premises of their principals, and are generally compensated on a commission basis, are within this occupational group. Such salesmen are generally not controlled as to the details of their services or the means by which they cover their territories, but in the ordinary case they are expected to call on regular customers with a fair degree of regularity.

(*b*) In order for a city or traveling salesman to be included within this occupational group, his entire or principal business activity must be devoted to the solicitation of orders for one principal. Thus, the multiple-line salesman generally will not be within this occupational group. However, if the salesman solicits orders primarily for one principal, he is not excluded from this occupational group solely because of side-line sales activities on behalf of one or more other persons. In such a case, the salesman is within this occupational group only with respect to the services performed for the person for whom he

primarily solicits orders and not with respect to the services performed for such other persons. The following examples illustrate the application of the foregoing provisions:

Example (1). Salesman A's principal business activity is the solicitation of orders from retail pharmacies on behalf of the X wholesale drug company. A also occasionally solicits orders for drugs on behalf of the Y and Z companies. A is within this occupational group with respect to his services for the X company but not with respect to his services for either the Y company or the Z company.

Example (2). Salesman B's principal business activity is the solicitation of orders from retail hardware stores on behalf of the R tool company and the S cooking utensil company. B regularly solicits orders on behalf of both companies. B is not within this occupational group with respect to the services performed for either the R company or the S company.

Example (3). Salesman C's principal business activity is the house-to-house solicitation of orders on behalf of the T brush company. C occasionally solicits such orders from retail stores and restaurants. C is not within this occupational group.

(4) (i) The fact that an individual falls within one of the enumerated occupational groups, however, does not make such individual an employee under this paragraph unless (*a*) the contract of service contemplates that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by such individual, (*b*) such individual has no substantial investment in the facilities used in connection with the performance of such services (other than in facilities for transportation), and (*c*) such services are part of a continuing relationship with the person for whom the services are performed and are not in the nature of a single transaction.

(ii) The term "contract of service", as used in this paragraph, means an arrangement, formal or informal, under which the particular services are performed. The requirement that the contract of service shall contemplate that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by the individual means that it is not contemplated that any material part of the services to which the contract relates in such occupation will be delegated to any other person by the individual who undertakes under the contract to perform such services.

(iii) The facilities to which reference is made in this paragraph include equipment and premises available for the work or enterprise as distinguished from education, training, and experience, but do not include such tools, instruments, equipment, or clothing, as are commonly or frequently provided by employees. An investment in an automobile by an individual which is used primarily for his own transportation in connection with the performance of services for another person has no significance under this paragraph, since such investment is comparable to outlays for transportation by an individual performing similar services who does not own an automobile. Moreover, the investment in facilities for the transportation of the goods or commodities to which the services relate is to be excluded in determining the investment in a particular case. If an individual has a substantial investment in facilities of the requisite character, he is not an employee within the meaning of this paragraph, since a substantial investment of the requisite character standing alone is sufficient to exclude the individual from the employee concept under this paragraph.

(iv) If the services are not performed as part of a continuing relationship with the person for whom the services are performed, but are in the nature of a single transaction, the individual performing such services is not an employee of such person within the meaning of this paragraph. The fact that the services are not performed on consecutive workdays does not indicate that the services are not performed as part of a continuing relationship.

§ 408.205 *Who are employers.* (a) Every person is an employer if he employs one or more employees. Neither the number of employees employed nor the period during which any such employee is employed is material for the purpose of determining whether the person for whom the services are performed is an employer.

(b) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

(c) Although a person may be an employer under this section, services performed in his employ may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act (see § 408.203).

SECTION 1426 (b) OF THE ACT

EMPLOYMENT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

* * * * *

(Sec. 1426 (b), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 528.)

§ 408.206 *Excepted services in general.* (a) Services performed on or after January 1, 1951, by an employee for an employer do not constitute employment for purposes of the tax if they are specifically excepted from employment under any of the numbered paragraphs of section 1426 (b) of the act. Services so excepted do not constitute employment for purposes of the tax even though they are performed within the United States, or are performed outside the United States on or in connection with an American vessel or American aircraft, or are performed outside the United States by a citizen of the United States for an American employer.

(b) The exception attaches to the services performed by the employee and not to the employee as an individual; that is, the exception applies only to the services in an excepted class rendered by the employee.

Example. A is an individual who is employed part time by B to perform services in connection with the ginning of cotton (see § 408.208 (b)). A is also employed by C part time to perform services as a clerk in a feed store owned by him. While no tax liability is incurred with respect to A's remuneration for services performed in the employ of B (the services being excepted from employment), the exception does not embrace the services performed by A in the employ of C which constitute employment and the tax attaches with respect to the wages (see § 408.226) for such services.

(c) This section, § 408.207 (relating to included and excluded services), and §§ 408.208 to 408.225, inclusive (relating to the several classes of excepted services), apply with respect only to services performed on or after January 1, 1951. (For provisions relating to the circumstances under which services which are excepted are nevertheless deemed to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment, see § 408.207. For provisions relating to services performed prior to January 1, 1951, see § 408.202.)

SECTION 1426 (c) OF THE ACT

INCLUDED AND EXCLUDED SERVICE

If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the employee by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, where any of such service is excepted by paragraph (10) of subsection (b). (Sec. 1426 (c), I. R. C., as amended by sec. 606, Social Security Act Amendments of 1939, 53 Stat. 1383; sec. 204 (f), (g), Social Security Act Amendments of 1950, 64 Stat. 536.)

§ 408.207 *Included and excluded services.* (a) If a portion of the services performed by an employee for an employer during a pay period constitutes employment, and the remainder does not constitute employment, all the services performed by the employee for the employer during the period shall for purposes of the tax be treated alike, that is, either all as included or all as excluded. The time during which the employee performs services which under section 1426 (b) of the act constitute employment, and the time during which he performs services which under such section do not constitute employment, within the pay period, determine whether all the services during the pay period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular person in a pay period is spent

in performing services which constitute employment, then all the services of that employee for that person in that pay period shall be deemed to be employment.

(c) If less than one-half of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then none of the services of that employee for that person in that pay period shall be deemed to be employment.

Example. Employee A is employed by B who operates a cotton gin and a store. A's services in connection with the ginning of cotton do not constitute employment, and his services in the store constitute employment. He is paid at the end of each month. During a particular month A works 120 hours at the cotton gin and 80 hours in the store. None of A's services during the month are deemed to be employment, since less than one-half of his services during the month constitutes employment.

During another month A works 75 hours at the cotton gin and 120 hours in the store. All of A's services during the month are deemed to be employment, since one-half or more of his services during the month constitutes employment.

(d) For purposes of this section, a "pay period" is the period (of not more than 31 consecutive calendar days) for which a payment of remuneration is ordinarily made to the employee by the employer. Thus, if the periods for which payments of remuneration are made to the employee by the employer are of uniform duration, each such period constitutes a "pay period." If, however, the periods occasionally vary in duration, the "pay period" is the period for which a payment of remuneration is ordinarily made to the employee by the the employer, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but the employee receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the "pay period" is still the calendar week; or if, instead, that employee is sent on a trip by such employer and receives at the end of the third week a single remuneration payment for three weeks' services, the "pay period" is still the calendar week.

(e) If there is only one period (and such period does not exceed 31 consecutive calendar days) for which a payment of remuneration is made to the employee by the employer, such period is deemed to be a "pay period" for purposes of this section.

(f) The rules set forth in this section do not apply (1) with respect to any services performed by the employee for the employer if the periods for which such employer makes payments of remuneration to the employee vary to the extent that there is no period "for which a payment of remuneration is ordinarily made to the employee", or (2) with respect to any services performed by the employee for the employer if the period for which a payment of remuneration is ordinarily made to the employee by such employer exceeds 31 consecutive calendar days, or (3) with respect to any service performed by the employee for the employer during a pay period if any of such service is excepted by section 1426 (b) (10) of the act (see § 408.217).

(g) If during any period for which a person makes a payment of remuneration to an employee only a portion of the employee's services constitutes employment, but the rules prescribed in this section are not applicable, the tax attaches with respect to such services as constitute employment as defined in section 1426 (b) of the act.

SECTION 1426 (b) (1) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(1) (A) Agricultural labor (as defined in subsection (h) of this section) performed in any calendar quarter by an employee, unless the cash remuneration paid for such labor (other than service described in subparagraph (B)) is $50 or more and such labor is performed for an employer by an individual who is regularly employed by such employer to perform such agricultural labor. For the purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(i) such individual performs agricultural labor (other than service described in subparagraph (B)) for such employer on a full-time basis on sixty days during such quarter, and

(ii) the quarter was immediately preceded by a qualifying quarter.

For the purposes of the preceding sentence, the term "qualifying quarter" means (I) any quarter during all of which such individual was continuously employed by such employer, or (II) any subsequent quarter which meets the test of clause (i) if, after the last quarter during all of which such individual was continuously employed by such employer, each intervening quarter met the test of clause (i). Notwithstanding the preceding provisions of this subparagraph, an individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of clauses (i) and (ii)) by such employer during the preceding calendar quarter.

(B) Service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton; (Sec. 1426 (b) (1), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 528.)

SECTION 1426 (h) OF THE ACT

AGRICULTURAL LABOR

The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. (Sec. 1426 (h), I. R. C., as added by sec. 606, Social Security Act Amendments of 1939, 53 Stat. 1383, and as amended by sec. 204 (d), (g), Social Security Act Amendments of 1950, 64 Stat. 532, 536.)

SECTION 15 (g) OF THE AGRICULTURAL MARKETING ACT, AS AMENDED

As used in this Act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923. (Sec. 15 (g), Act of June 15, 1929, 46 Stat. 18, as added by sec. 3, Act of Mar. 4, 1931, 46 Stat. 1550, 12 U. S. C. 1141j (g).)

SECTION 2 (c) AND (h) OF THE NAVAL STORES ACT

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine. (Sec. 2 (c), (h), Act of Mar. 3, 1923, 42 Stat. 1435, 7 U. S. C. 92 (c), (h).)

§ 408.208 *Agricultural labor*—(a) *In general.* This section relates to services performed by an employee for an employer which constitute "agricultural labor" as defined in section 1426 (h) of the act. Paragraph (b) of this section relates to agricultural labor which is categorically excepted from employment under section 1426 (b) (1) (B) of the

act. Paragraph (c) of this section relates to agricultural labor which is excepted from employment under section 1426 (b) (1) (A) of the act unless performed under the conditions therein prescribed. Paragraph (d) of this section relates to the definition of the term "agricultural labor."

(b) *Services excepted under section 1426 (b) (1) (B)* of the act. (1) The following services are excepted from employment under section 1426 (b) (1) (B) of the act:

(i) Services performed in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum; and

(ii) Services performed in connection with the ginning of cotton.

(2) The amount of the remuneration paid for such services and the circumstances under which the services are performed are immaterial for the purposes of the exception under section 1426 (b) (1) (B).

(c) *Services excepted under section 1426 (b) (1) (A) of the act.* (1) As used in this paragraph, the term "agricultural labor" does not include services performed in connection with the ginning of cotton or in connection with the production or harvesting of those oleoresinous products described in paragraph (b) of this section.

(2) Agricultural labor performed by an employee for an employer in a calendar quarter is excepted from employment under section 1426 (b) (1) (A) of the act unless—

(i) The cash remuneration paid for agricultural labor performed by the employee for the employer in the calendar quarter is $50 or more; and

(ii) Such employee is regularly employed in the calendar quarter by such employer to perform such agricultural labor.

Unless the tests set forth in both (i) and (ii) of this subparagraph are met, the services are excepted from employment under section 1426 (b) (1) (A).

(3) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also required that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for agricultural labor performed in a calendar quarter, only cash remuneration for agricultural labor shall be taken into account. (Since services performed in connection with the ginning of cotton or in connection with the production or harvesting of those oleoresinous products described in paragraph (b) of this section do not constitute agricultural labor for the purposes of this paragraph, any remuneration paid for such services is disregarded in determining whether the cash-remuneration test is met.) The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, farm products, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for agricultural labor, see § 408.227 (g).

(4) For the purposes of this paragraph, an individual is deemed to be regularly employed by an employer during a calendar quarter (including the first quarter of 1951) if:

(i) Such individual performs agricultural labor for such employer on a full-time basis on at least 60 days (whether or not consecutive) during such calendar quarter; and

(ii) The calendar quarter was immediately preceded by a qualifying quarter.

An individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of (i) and (ii) of this subparagraph) by such employer during the preceding calendar quarter.

(5) A qualifying quarter is (i) any calendar quarter during all of which the individual was continuously employed by the employer, or (ii) any subsequent calendar quarter during which such individual performs agricultural labor for such employer on a full-time basis on at least 60 days during such quarter if, after the last calendar quarter during which such individual was continuously employed by such employer, such individual performs agricultural labor for such employer on a full-time basis on at least 60 days during each intervening calendar quarter. A calendar quarter prior to the last calendar quarter of 1950 may not be a qualifying quarter.

(6) The requirement that an employee be continuously employed by an employer during all of a calendar quarter is met by the existence of the employer-employee relationship throughout an entire calendar quarter, whether or not the employee does any work for the employer during the calendar quarter. Moreover, a calendar quarter in which the employee is continuously employed by the employer is a qualifying quarter, irrespective of whether the employee is employed to perform agricultural labor. For example, the calendar quarter in which the employee is continuously employed by the employer to perform services in connection with the ginning of cotton or any business conducted by the employer is a qualifying quarter.

(7) In order to satisfy the requirement of the performance of agricultural labor on a full-time basis on at least 60 days during a calendar quarter, the arrangement under which an employee performs agricultural labor for an employer must contemplate the performance of such labor on a full-time basis, and the employee must perform agricultural labor for the employer on at least 60 days during the calendar quarter. Thus, the requirement of the performance of agricultural labor on a full-time basis relates to the arrangement under which the employee is engaged to perform agricultural labor, whereas the requirement of the performance of agricultural labor on at least 60 days during a calendar quarter relates to the performance of agricultural labor by the employee on the required number of days during such calendar quarter.

(8) An arrangement for the performance of agricultural labor on a full-time basis means an arrangement under which an employee is engaged to perform agricultural labor for a single employer on the basis of a full work day. The term "full work day" as used in the preceding sentence has reference to the full work day prevailing in the particular locality for the type of agricultural occupation in which the employee is engaged. The fact that an employee who performs agricultural labor primarily for one employer also performs other services of an incidental character for such employer or any incidental services for some other person does not prevent such employee from being engaged on a full-time basis in the performance of agricultural labor for such employer.

Example. A, the operator of a dairy farm, employs B, a schoolboy, for two hours each morning before school and two hours each afternoon after school to assist him in the operation of the dairy farm. In addition, B works for A ten hours each Saturday in the performance of the same type of work. The full work day in the particular locality for a dairy farm worker is a period of eight hours. Each full calendar quarter B remains in the employ of A constitutes a qualifying quarter for the reason that B is continuously employed by A in each such quarter. Since under the arrangement B is engaged to perform agricultural labor for A on the basis of a full work day only on Saturdays, only the Saturdays constitute days on which B performs agricultural labor for A on a full-time basis. The other days of the week do not constitute days on which B performs agricultural labor for A on a full-time basis, since the arrangement contemplates the performance of agricultural labor on such days on less than a full work day.

(9) In determining whether an employee has performed agricultural labor on at least 60 days during a calendar quarter, there shall be counted as one day—

(i) Any day or portion thereof on which the employee actually performs such labor; and

(ii) Any day or portion thereof on which the employee does not perform agricultural labor but with respect to which remuneration is paid or payable to the employee for such labor, such as a day on which the employee is sick or on vacation.

An employee who reports for work and, at the direction of his employer, holds himself in readiness to perform agricultural labor shall be considered to be engaged in the actual performance of such labor. For the purposes of this section, a day is a period of 24 hours commencing at midnight and ending at midnight.

(10) An individual who is regularly employed in a calendar quarter under the test set forth in subdivisions (i) and (ii) of subparagraph (4) of this paragraph is also considered to be regularly employed in the next succeeding calendar quarter, irrespective of whether he performs any service during such suc-

ceeding quarter. Thus, such individual will continue to be regularly employed until the end of such succeeding calendar quarter, even though he does not perform agricultural labor on a full-time basis on 60 days during such quarter. If in such succeeding calendar quarter such individual does not perform agricultural labor on a full-time basis on at least 60 days, such individual must meet the test set forth in subdivisions (i) and (ii) of subparagraph (4) of this paragraph in order to qualify as regularly employed in any subsequent calendar quarter.

(11) The application of certain of the provisions of paragraph (c) of this section may be illustrated by the following example:

Example. C, who operates a truck farm and a general store, hired D on September 15, 1950, to work in his store for the remainder of the year.

The calendar quarter, October 1 through December 31, 1950, is a qualifying quarter by virtue of the existence of the employer-employee relationship throughout the entire calendar quarter. The fact that the quarter was before January 1, 1951, the effective date of the inclusion of certain agricultural labor as employment, does not prevent such quarter from being a qualifying quarter. (The last calendar quarter of 1950 is the first calendar quarter which may constitute a qualifying quarter.) The nature of the work performed by D in the qualifying quarter is immaterial. D might have worked on C's farm or in any other business conducted by C during that period. In fact, the quarter would constitute a qualifying quarter even though D did not work for C during the quarter, if the employer-employee relationship existed throughout the calendar quarter.

On January 1, 1951, D was transferred from C's store to his farm to perform general farm work. The arrangement contemplates that D will devote eight hours on each work day to the performance of agricultural labor for C. An 8-hour day constitutes the full work day prevailing in the locality for general farm work. In the calendar quarter, January 1 through March 31, 1951, D performs agricultural labor for C on 65 days. D is paid $390 in cash for agricultural labor performed for C in the calendar quarter.

D is regularly employed by C in the first calendar quarter of 1951 in that he performed agricultural labor on a full-time basis on at least 60 days during such calendar quarter and such quarter was immediately preceded by a qualifying quarter. The services performed by D during the calendar quarter constitute employment (unless excepted under some provision of section 1426 of the act other than section 1426 (b) (1)) because D is regularly employed by C in the calendar quarter and is paid $50 or more for agricultural labor performed for C in the calendar quarter. The cash remuneration paid D for services performed during the calendar quarter would constitute wages and be subject to the employer and employee taxes unless such remuneration is excluded from wages under some provision of section 1426 (a) of the act.

In the next calendar quarter, April 1 through June 30, 1951, D performs agricultural labor for C on 45 days and is paid $270 in cash for the labor performed on those days.

D is regularly employed by C in the second calendar quarter of 1951, even though he worked on less than 60 days in the quarter, by reason of the fact that D was regularly employed by C in the preceding calendar quarter. The services performed in the second calendar quarter also constitute employment unless excepted under some other provision of section 1426 of the act. The cash remuneration paid for such services is likewise subject to the employer and employee taxes unless excluded from wages by virtue of some provision of section 1426 (a) of the act.

In the quarter, July 1, through September 30, 1951, D performs agricultural labor for C on a full-time basis on 60 days and is paid $360 in cash for the labor performed in that quarter.

The determination whether D is regularly employed by C in the third calendar quarter of 1951 depends upon whether the employer-employee relationship continued throughout the calendar quarter, April 1 through June 30, 1951. If the employer-employee relationship did not continue throughout the second calendar quarter of 1951, D lost his standing as regularly employed for the third calendar quarter of 1951 when he worked on less than 60 days in the preceding calendar quarter. In that case, D will not be regularly employed until after he serves another qualifying quarter, by being continuously employed for a full calendar quarter, and performs agricultural labor for the same employer on a full-time basis on at least 60 days during the next succeeding calendar quarter. However, if the employer-employee relationship existed between C and D throughout the second calendar quarter of 1951, such quarter would constitute a qualifying quarter and D would be regularly employed by C in the third calendar quarter of 1951 by reason of the fact that he performed agricultural labor for C on a full-time basis on 60 days during such third calendar quarter. In that case, D's services for C in the third calendar quarter of 1951 would constitute employment, unless otherwise excepted, by reason of the fact that he was regularly employed to perform agricultural labor in such quarter and was paid $50 or more for agricultural labor performed in the quarter. Moreover, the cash remuneration paid for such services would be subject to the taxes unless such remuneration is excluded from wages.

(d) *Definition*—(1) *In general.* (i) The term "agricultural labor" as defined in section 1426 (h) of the act includes services of the character described in subparagraphs (2), (3), (4), (5), and (6) of this paragraph. In general, however, the term does not include services performed in connection with forestry, lumbering, or landscaping.

(ii) The term "farm" as used in this section includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets) do not constitute "farms".

(2) *Services described in section 1426 (h) (1) of the act.* (i) Services performed on a farm by an employee of any person in connection with any of the following activities constitute agricultural labor:

(*a*) The cultivation of the soil;

(*b*) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(*c*) The raising or harvesting of any other agricultural or horticultural commodity.

(ii) Services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry constitute agricultural labor only if such services are performed on a farm. Thus, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, do not constitute agricultural labor. Services performed in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar do not constitute agricultural labor, even though such services are performed on a farm.

(3) *Services described in section 1426 (h) (2) of the act.* (i) The following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms constitute agricultural labor, provided the major part of such services is performed on a farm:

(*a*) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(*b*) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

(ii) The services described in subdivision (i) (*a*) of this subparagraph may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semi-skilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

(iii) Since the services described in this subparagraph must be performed in the employ of the owner or tenant or other operator of the farm, the term "agricultural labor" does not include services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(4) *Services described in section 1426 (h) (3) of the act.* Services performed by an employee in the employ of any person in connection with any of the following operations constitute agricultural labor without regard to the place where such services are performed:

(i) The ginning of cotton;

(ii) The operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying or storing water for farming purposes; or

(iii) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(5) *Services described in section 1426 (h) (4) of the act.* (i) Services performed by an employee in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market,

of any agricultural or horticultural commodity constitute agricultural labor if:

(a) Such services are performed by the employee in the employ of an operator of a farm or in the employ of a group of operators of farms (other than a cooperative organization);

(b) Such services are performed with respect to the commodity in its unmanufactured state; and

(c) Such operator produced more than one-half of the commodity with respect to which such services are performed during the pay period, or such group of operators produced all of the commodity with respect to which such services are performed during the pay period.

(ii) The term "operator of a farm" as used in this subparagraph means an owner, tenant, or other person, in possession of a farm and engaged in the operation of such farm.

(iii) The services described in this subparagraph do not constitute agricultural labor if performed in the employ of a cooperative organization. The term "organization" includes corporations, joint-stock companies, and associations which are treated as corporations under the Internal Revenue Code. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which the services involved are performed.

(iv) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. On the other hand, services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constittue agricultural labor.

(v) The term "commodity" refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in subdivision (i) (c) of this subparagraph has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this subparagraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(vi) The services described in this subparagraph do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this subparagraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of subparagraph (3) of this paragraph.

(6) *Services described in section 1426 (h) (5) of the act.* (i) Services not in the course of the employer's trade or business (see § 408.210) or domestic service in a private home of the employer (see § 408.227 (h)) constitute agricultural labor if such services are performed on a farm operated for profit. The determination whether such services performed on a farm operated for profit constitute employment is to be made under this section rather than under § 408.210 or § 408.227 (h).

(ii) Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

SECTION 1426 (b) (2) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(2) Domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university; (Sec. 1426 (b) (2), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 529.)

§ 408.209 *Domestic service performed by a student in a local college club, etc.* (a) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purposes of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

(b) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purposes of supplying board or lodging to students or the public as a business enterprise, the services performed therein are not within the exception.

(d) The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(e) Services of a household nature are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, or commercial establishments.

(f) For provisions relating to domestic service in a private home of the employer, see § 408.227 (h).

SECTION 1426 (b) (3) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(3) Service not in the course of the employer's trade or business performed in any calendar quarter y an employee, unless the cash remuneratton paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter. As used in this paragraph, the term "service not in the course of the employer's trade or business" does not include domestic service in a private home of the employer and does not include service described in subsection (h) (5); (Sec. 1426 (b) (3), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 529.)

§ 408.210 *Services not in the course of employer's trade or business.* (a) Services not in the course of the employer's trade or business performed by an employee for an employer in a calendar quarter are excepted from employment unless—

(1) The cash remuneration paid for such services performed by the employee for the employer in the calendar quarter is $50 or more; and

(2) Such employee is regularly employed in the calendar quarter by such employer to perform such services.

Unless the tests set forth in both subparagraphs (1) and (2) of this paragraph are met the services are excepted from employment.

(b) The term "services not in the course of the employer's trade or business" includes services that do not promote or advance the trade or business of the employer. Services performed for a corporation do not come within the exception.

(c) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on the remuneration

paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also required that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for services not in the course of the employer's trade or busines, only cash remuneration for such services shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(d) For the purposes of this exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(1) Such individual performs services not in the course of the employer's trade or business for such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(2) Such individual was regularly employed (as determined under subparagraph (1) of this paragraph) by such employer in the performance of services not in the course of the employer's trade or business during the preceding calendar quarter (including the last calendar quarter of 1950).

(e) In determining whether an employee has performed services not in the course of the employer's trade or business on at least 24 days during a calendar quarter, there shall be counted as one day—

(1) Any day or portion thereof on which the employee actually performs such services; and

(2) Any day or portion thereof on which the employee does not perform services of the prescribed character but with respect to which remuneration is paid or payable to the employee for such services, such as a day on which the employee is sick or on vacation.

An employee who reports for work and, at the direction of his employer, holds himself in readiness to perform services not in the course of the employer's trade or business shall be considered to be engaged in the actual performance of such services. For the purposes of this exception, a day is a period of 24 hours commencing at midnight and ending at midnight.

(f) Services not in the course of the employer's trade or business performed on a farm operated for profit, domestic service in a private home of the employer performed on a farm operated for profit, and domestic service in a private home of the employer performed other than on a farm operated for profit are not within the exception. For provisions relating to services not in the course of the employer's trade or business performed on a farm operated for profit and domestic service in a private home of the employer performed on a farm operated for profit, see § 408.208. For provisions relating to domestic service in a private home of the employer performed other than on a farm operated for profit, see § 408.227 (h).

(g) For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, see § 408.227 (g).

SECTION 1426 (b) (4) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother; (Sec. 1426 (b) (4), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 529.)

§ 408.211 *Family employment.* (a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2) Services performed by a father or mother in the employ of his or her son or daughter; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a) (1) and (2) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a) (3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

(c) Services performed in the employ of a corporation are not within the exception. Services performed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

SECTION 1426 (b) (5) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(5) Service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if the individual is employed on and in connection with such vessel or aircraft when outside the United States; (Sec. 1426 (b) (5), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 529.)

§ 408.212 *Non-American vessel or aircraft.* (a) Certain services performed within the United States "on or in connection with" a vessel not an American vessel, or "on or in connection with" an aircraft not an American aircraft, are excepted from employment. In order to be excepted, the services must be performed by an employee who is also employed "on and in connection with" the vessel or aircraft when outside the United States.

(b) An employee performs services on and in connection with the vessel or aircraft if he performs services on such vessel or aircraft when outside the United States which are also in connection with the vessel or aircraft. Services performed on the vessel outside the United States by employees as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft outside the United States by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(c) The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(d) Services performed outside the United States on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, by a citizen of the United States as an employee for an American employer are excepted from employment, if the employee is employed on and in connection with such vessel or aircraft when outside the United States. Services performed outside the United States on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, either by an employee who is not a citizen of the United States or for an employer who is not an American employer do not constitute employment in any event. (For provisions relating to services performed outside the United States which constitute employment, see § 408.203 (c).)

(e) The citizenship or residence of the employee and the place where the contract of service is entered into are immaterial for purposes of this exception. The citizenship or residence of the employer is material only in case it has a bearing in determining whether the vessel is an American vessel. (For definitions of "vessel", "American vessel", "aircraft", "American aircraft", "citizen of the United States", and "American employer", see § 408.203 (c).)

SECTION 1426 (b) (6) AND (7) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(6) Service performed in the employ of any instrumentality of the United States, if such instrumentality is exempt from the tax imposed by section 1410 by virtue of any provision of law which specifically refers to such section in granting such exemption;

(7) (A) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States;

(B) Service performed in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 on December 31, 1950, except that the provisions of this subparagraph shall not be applicable to—

(i) service performed in the employ of a corporation which is wholly owned by the United States;

(ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration; or

(iv) service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department;

(C) Service performed in the employ of the United States or in the employ of any instrumentality of the United States, if such service is performed—

(i) as the President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner, of or to the Congress;

(ii) in the legislative branch;

(iii) in the field service of the Post Office Department unless performed by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment;

(iv) in or under the Bureau of the Census of the Department of Commerce by temporary employees employed for the taking of any census;

(v) by any individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act of 1930 because he is paid on a contract or fee basis;

(vi) by any individual as an employee receiving nominal compensation of $12 or less per annum;

(vii) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(viii) by any individual as a consular agent appointed under authority of section 551 of the Foreign Service Act of 1946 (22 U. S. C., sec. 951);

(ix) by any individual as an employee included under section 2 of the Act of August 4, 1947 (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government; 5 U. S. C., sec. 1052);

(x) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(xi) by any individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(xii) as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(xiii) by an individual to whom the Civil Service Retirement Act of 1930 does not apply because such individual is subject to another retirement system; (Sec. 1426 (b) (6), (7), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 529.)

SECTION 1412 OF THE ACT

INSTRUMENTALITIES OF THE UNITED STATES

Notwithstanding any other provision of law (whether enacted before or after the enactment of this section) which grants to any instrumentality of the United States an exemption from taxation, such instrumentality shall not be exempt from the tax imposed by section 1410 unless such other provision of law grants a specific exemption, by reference to section 1410, from the tax imposed by such section. (Sec. 1412, I. R. C., as added by sec. 202 (a), (d), Social Security Act Amendments of 1950, 64 Stat. 524, 525.)

§ 408.213 *United States and instrumentalities thereof*—(a) *In general.* This section relates to services performed in the employ of the United States Government or in the employ of any instrumentality of the United States. Paragraphs (b) and (c) of this section relate to services performed either in the employ of the United States or in the employ of any instrumentality thereof. Paragraph (b) of this section relates to services which are excepted from employment by virtue of the fact that the services are covered by a retirement system established by a law of the United States. Paragraph (c) of this section relates to services which are excepted from employment by virtue of the fact that the services are of the character described in any one of 13 special classes of excepted services. Paragraphs (d) and (e) of this section relate solely to services performed in the employ of an instrumentality of the United States. Paragraph (d) of this section relates to services which are excepted from employment by virtue of the fact that the services are performed in the employ of an instrumentality which has been granted a specific statutory exemption from the tax imposed by section 1410 of the act. Paragraph (e) of this section relates to services which are excepted from employment by virtue of the fact that the services are performed in the employ of an instrumentality which either was exempt on December 31, 1950, from the tax imposed by section 1410 of the act or would have been exempt on that date from such tax had it then been in existence. Particular services which are not excepted from employment under one rule set forth in this section may nevertheless be excepted under another rule set forth in this section. Moreover, services performed in the employ of the United States or of any instrumentality thereof which are not excepted from employment under paragraph (6) or (7) of section 1426 (b) of the act may nevertheless be excepted under some other paragraph of such section.

(b) *Services covered under a retirement system.* Services performed in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment if such services are covered under a law enacted by the Congress of the United States which specifically provides for the establishment of a retirement system for employees of the United States or of such instrumentality. Determinations as to whether services are covered by a retirement system of the requisite character are to be made as of the time such services are performed. Services of an employee who has an option to have his services covered under a retirement system are not covered under such retirement system unless and until he exercises such option. The test is whether particular services performed by an employee are covered by a retirement system of the requisite character rather than whether the position in which such services are performed is covered by such retirement system.

(c) *Special classes of services.* The following classes of services performed either in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment:

(1) Services performed as the President or Vice President of the United States or as a Member, Delegate, Resident Commissioner, of or to the Congress of the United States;

(2) Services performed in the legislative branch of the United States Government;

(3) Services performed in the field service of the Post Office Department unless performed by an individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act (Act of May 29, 1930, as amended, 5 U. S. C. 691 et seq.) because he is serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment;

(4) Services performed in or under the Bureau of the Census of the Department of Commerce by temporary employees employed for the actual taking of any census (exclusive of clerical or other employees employed for work other than in the actual taking of the census);

(5) Services performed by an individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act because of payment on a contract or fee basis;

(6) Services performed by an individual as an employee for nominal compensation of $12 or less per annum;

(7) Services performed in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) Services performed by an individual as a consular agent appointed under the authority of section 551 of the Foreign Service Act of 1946 (22 U. S. C. 951);

(9) Services performed by student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, or student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the United States Government, or by certain other student employees described in section 2 of the act of August 4, 1947 (5 U. S. C. 1052);

(10) Services performed by an individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(11) Services performed by an individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(12) Services performed as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other similar body is composed exclusively of individuals otherwise in the full-time employ of the United States; and

(13) Services performed by an individual to whom the Civil Service Retirement Act does not apply because he is, with respect to such services, subject to another retirement system, established either by a law of the United States or by the agency or instrumentality of the United States for which such services are performed.

(d) *Services performed for instrumentality specifically exempted from tax.* Services performed in the employ of an instrumentality of the United States are excepted from employment if such instrumentality is exempt from the employer tax imposed by section 1410 of the act by virtue of any other provision of law which specifically refers to such section 1410 in granting exemption from the tax imposed by such section. This exception does not operate to exclude from employment services performed in the employ of an instrumentality of the United States unless and until the Congress grants to such instrumentality a specific exemption from the tax imposed by section 1410. Section 1412 of the act makes ineffectual as to the employer tax imposed by section 1410 those provisions of law which grant to an instrumentality of the United States an exemption from taxation, unless such provisions grant a specific exemption from the tax imposed by section 1410 by an express reference to such section. Thus, the general exemptions from Federal taxation granted by various statutes to certain instrumentalities of the United States without specific reference to the tax imposed by section 1410 are rendered inoperative insofar as such exemptions relate to the tax imposed by section 1410. For provisions relating to services performed for an instrumentality exempt on December 31, 1950, from the employer tax, see paragraph (e) of this section.

(e) *Services performed for an instrumentality not subject to employer tax on December 31, 1950.* Services performed in the employ of an instrumentality of the United States are excepted from employment if the particular instrumentality was not subject on December 31, 1950, to the employer tax imposed by section 1410 of the act. If the particular instrumentality was not in existence on December 31, 1950, but is created thereafter under a law which was in effect on December 31, 1950, services performed in the employ of such instrumentality are excepted from employment if the instrumentality had it been in existence on December 31, 1950, would not have been subject on that date to the employer tax imposed by section 1410 of the act. It is immaterial, for the purposes of this exception, whether the exemption from the employer tax on December 31, 1950, resulted, or would have resulted, from a tax exemption as such in effect on December 31, 1950, or from the provisions of section 1426 (b) (6) of the act in effect on that date, relating to the exception from employment of services performed in the employ of certain instrumentalities of the United States. This exception, however, has no application with respect to any of the following classes of services:

(1) Services performed in the employ of a corporation which is wholly owned by the United States;

(2) Services performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or a Federal Credit Union;

(3) Services performed in the employ of a State, county, or community committee under the Production and Marketing Administration; or

(4) Services performed by a civilian employee, who is not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department.

SECTION 1426 (b) (8) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(8) Service (other than service which, under subsection (k), constitutes covered transportation service) performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more States or political subdivisions; (Sec. 1426 (b) (8), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

SECTION 1426 (k) OF THE ACT

COVERED TRANSPORTATION SERVICE

(1) *Existing transportation systems—General rule.* Except as provided in paragraph (2), all service performed in the employ of a State or political subdivision in connection with its operation of a public transportation system shall constitute covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951.

(2) *Existing transportation systems—Cases in which no transportation employees, or only certain employees, are covered.*— Service performed in the employ of a State or political subdivision in connection with the operation of its public transportation system shall not constitute covered transportation service if—

(A) any part of the transportation system was acquired from private ownership after 1936 and prior to 1951, and substantially all service in connection with the operation of the transportation system is, on December 31, 1950, covered under a general retirement system providing benefits which, by reason of a provision of the State constitution dealing specifically with retirement systems of the State or political subdivisions thereof, cannot be diminished or impaired; or

(B) no part of the transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951;

except that if such State or political subdivision makes an acquisition after 1950 from private ownership of any part of its transportation system, then, in the case of any employee who—

(C) became an employee of such State or political subdivision in connection with and at the time of its acquisition after 1950 of such part, and

(D) prior to such acquisition rendered service in employment (including as employment service covered by an agreement under section 218 of the Social Security Act) in connection with the operation of such part of the transportation system acquired by the State or political subdivision,

the service of such employee in connection with the operation of the transportation system shall constitute covered transportation service, commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of such part took place, unless on such first day such service of such employee is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees described in subparagraph (C).

(3) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system shall constitute covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition (after 1950) from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) *Definitions.* For the purpose of this subsection—

(A) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term shall not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(B) A transportation system or a part thereof shall be considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or part thereof acquired constituted employment under this subchapter or was covered by an agreement made pursuant to section 218 of the Social Security Act and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(C) The term "political subdivision" includes an instrumentality of (i) a State, (ii) one or more political subdivisions of a State, or (iii) a State and one or more of its political subdivisions. (Sec. 1426 (k), I. R. C., as added by sec. 204 (e), (g), Social Security Act Amendments of 1950, 64 Stat. 533, 536.)

SECTION 1426 (e) (1) OF THE ACT

STATE

The term "State" includes Alaska, Hawaii, the District of Columbia, and the Virgin Islands; and on and after the effective date specified in section 3810 such term includes Puerto Rico. (Sec. 1426 (e) (1), I. R. C., as amended by sec. 204 (b), Social Security Act Amendments of 1950, 64 Stat. 532.)

SECTION 3810 OF THE INTERNAL REVENUE CODE

EFFECTIVE DATE IN CASE OF PUERTO RICO

If the Governor of Puerto Rico certifies to the President of the United States that the legislature of Puerto Rico has, by concurrent resolution, resolved that it desires the extension to Puerto Rico of the provisions of title II of the Social Security Act, the effective date referred to in sections 1426 (e) * * * shall be January 1 of the first calendar year which begins more than ninety days after the date on which the President receives such certification. (Sec. 3810, I. R. C., as added by sec. 208 (b), Social Security Act Amendments of 1950, 64 Stat. 543.)

[NOTE: A certificate of the Governor of Puerto Rico made in conformity with section 3810 of the Internal Revenue Code was received by the President of the United States on September 28, 1950. Accordingly, the effective date referred to in section 1426 (e) of the Internal Revenue Code is January 1, 1951.]

§ 403.214 *States and their political subdivisions and instrumentalities*—(a) *In general.* Services, other than covered transportation service as defined in section 1426 (k) of the act (see paragraph (b) of this section, performed in the employ of any State, or of any political subdivision thereof, are exempted from employment. Services, other than covered transportation service, performed in the employ of an instrumentality of one or more States or political subdivisions thereof are excepted from employment if the instrumentality is wholly owned by one or more of the foregoing. The term "State" includes the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico.

(b) *Covered transportation service*—(1) *Transportation systems acquired in whole or in part after 1936 and prior to 1951*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, all service performed after December 31, 1950, in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951. For the purposes of this subdivision, it is immaterial whether any part of the transportation system was acquired prior to 1937 or after 1950, whether the employee was hired before, during, or after 1950, or whether the employee had been employed by the employer from whom the State or political subdivision acquired its transportation system or any part thereof.

(ii) *General retirement system protected by State constitution.* Except as provided in subdivision (iii) of this subparagraph, service performed after December 31, 1950, in the employ of a State or political subdivision in connection with its operation of a public transportation system acquired in whole or in part from private ownership after 1936 and prior to 1951 does not constitute covered transportation service, if substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which are protected from diminution or impairment under the State constitution by reason of an express provision, dealing specifically with retirement systems established by the State or political subdivisions of the State, which forbids such diminution or impairment.

(iii) *Additions to certain transportation systems by acquisition after 1950.* This subdivision is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was acquired in whole or in part by a State or political subdivision thereof from private ownership after 1936 and prior to 1951 and then only in case service for such existing transportation system did not constitute covered transportation service by reason of the provisions of subdivision (ii) of this subparagraph. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who prior to the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(2) *Transportation systems in operation on December 31, 1950, no part of which was acquired after 1936 and prior to 1951*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, no service performed in the employ of a State or a political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if no part of such transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951.

(ii) *Additions acquired after 1950.* This subdivision is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was operated by a State or political subdivision on December 31, 1950, but no part of which was acquired from private ownership after 1936 and prior to 1951. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who prior to the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(3) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition after 1950 from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) *Definitions.* For the purposes of paragraph (b) of this section—

(i) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term does not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(ii) A transportation system or a part thereof is considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or an acquired part thereof constituted employment under the act or was covered by an agreement entered into between a State and the Federal Security Administrator pursuant to section 218 of the Social Security Act, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(iii) The term "political subdivision" includes an instrumentality of a State, of one or more political subdivisions of

a State, or of a State and one or more of its political subdivisions.

(iv) The term "employment" includes service covered by an agreement entered into between a State and the Federal Security Administrator pursuant to section 218 of the Social Security Act.

SECTION 1426 (b) (9) (A) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(9) (A) Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; (Sec. 1426 (b) (9) (A), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

§ 408.215 *Ministers of churches and members of religious orders.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, are excepted from employment. The duties of ministers include the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination.

SECTION 1426 (b) (9) (B) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(9) (B) Service performed in the employ of a religious, charitable, educational, or other organization exempt from income tax under section 101 (6), but this subparagraph shall not apply to service performed during the period for which a certificate, filed pursuant to subsection (l), is in effect if such service is performed by an employee (i) whose signature appears on the list filed by such organization under subsection (l), or (ii) who became an employee of such organization after the calendar quarter in which the certificate was filed. (Sec. 1426 (b) (9) (B), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

SECTION 101 OF THE INTERNAL REVENUE CODE

EXEMPTIONS FROM TAX ON CORPORATIONS

Except as provided in supplement U, the following organizations shall be exempt from taxation under this chapter [chapter 1—income tax]—

* * * * *

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation. For loss of exemption under certain circumstances, see sections 3813 and 3814;

* * * * * *

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any paragraph of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this paragraph the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

Notwithstanding supplement U, an organization described in this section (other than in the preceding paragraph) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes. (Sec. 101, I. R. C., as amended, effective with respect to taxable years beginning after December 31, 1950, by secs. 301 (b), (c) (1), 303, 332 (c), Revenue Act of 1950, 64 Stat. 953, 954, 959.)

SECTION 11 (b) OF THE SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 (64 STAT. 997)

No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7.

SECTION 1426 (l) OF THE ACT

EXEMPTION OF RELIGIOUS, CHARITABLE, ETC., ORGANIZATIONS

(1) *Waiver of exemption by organization.* An organization exempt from income tax under section 101 (6) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this subchapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees and that at least two-thirds of its employees concur in the filing of the certificate. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. Such list may be amended, at any time prior to the expiration of the first month following the first calendar quarter for which the certificate is in effect, by filing with such official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this subchapter. The certificate shall be in effect (for the purposes of subsection (b) (9) (B) and for the purposes of section 210 (a) (9) (B) of the Social Security Act) for the period beginning with the first day following the close of the calendar quarter in which such certificate is filed, but in no case shall such period begin prior to January 1, 1951. The period for which the certificate is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving two years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than eight years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this subchapter.

(2) *Termination of waiver period by Commissioner.* If the Commissioner finds that any organization which filed a certificate pursuant to this subsection has failed to comply substantially with the requirements of this subchapter or is no longer able to comply therewith, the Commissioner shall give such organization not less than sixty days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Commissioner by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Federal Security Administrator.

(3) *No renewal of waiver.* In the event the period covered by a certificate filed pursuant to this subsection is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection. (Sec. 1426 (l), I. R. C., as added by sec. 204 (e), (g), Social Security Act Amendments of 1950, 64 Stat. 535, 536.)

§ 408.216 *Religious, charitable, educational, or other organizations exempt from income tax under section 101 (6) of the Internal Revenue Code*—(a) *In general.* (1) Services performed by an employee in the employ of a religious, charitable, educational, or other organization exempt from income tax under section 101 (6) of the Internal Revenue Code are excepted from employment. However, this exception does not apply to services performed during the period for which a certificate, filed pursuant to section 1426 (l) of the act, is in effect if such services are performed by an employee (i) whose signature appears on the list filed by such organization under section 1426 (l) of the act, or (ii) who became an employee of such organization after the calendar quarter in which the certificate was filed.

(2) See § 408.215, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 408.218, relating to services performed in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code; § 408.219, relating to services performed in the employ of a school, college, or university by certain students; and § 408.222, relating to services performed by certain student nurses and hospital internes.

(b) *Waiver under section 1426 (l) of the Act of exemption from taxes*—(1) *Who may waive exemption.* (i) Any organization exempt from income tax under section 101 (6) of the Internal Revenue Code may waive its exemption from the taxes imposed under the act by filing a certificate on Form SS–15, provided that at least two-thirds of the employees of the organization concur in the filing of the certificate. The organization must be exempt from income tax under section 101 (6) for the taxable year in which the certificate is filed; otherwise, the Form SS–15 filed by the organization is void.

(ii) If the period covered by the certificate is terminated by the organization, no certificate may again be filed by the organization under section 1426 (l) of the act.

(2) *Form and effect of waiver.* (i) The certificate on Form SS–15 shall be filed with the collector for the district in which is located the principal office or

principal place of business of the organization. The organization shall certify in the certificate that it desires to have the insurance system established by title II of the Social Security Act extended to services performed by its employees and that at least two-thirds of its employees, determined on the basis of the facts existing as of the date the certificate is filed, concur in the filing of the certificate.

(ii) All individuals who are employees of the organization within the meaning of section 1426 (d) of the act (see § 408.-204) shall be included in determining whether two-thirds of the employees of the organization concur in the filing of the certificate; except that there shall not be included (*a*) those employees who at the time of the filing of the certificate are performing for such organization services only of the character specified in paragraphs (9) (A), (11) (B), and (14) of section 1426 (b) of the act (see §§ 408.215, 408.219, and 408.222, respectively) and (*b*) those alien employees who at the time of the filing of the certificate are performing services for such organization under an arrangement which provides for the performance only of services outside the United States not on or in connection with an American vessel or American aircraft. As used in the preceding sentence, the term "alien employee" does not include an employee who is a citizen of Puerto Rico or of the Virgin Islands, and the term "United States" includes Puerto Rico and the Virgin Islands.

(iii) The certificate may be filed only if it is accompanied by a list on Form SS–15a, containing the signature, address, and social security account number (if any) of each employee who concurs in the filing of the certificate. The list accompanying the certificate may be amended, at any time prior to the expiration of the first month following the first calendar quarter for which the certificate is in effect, by filing a supplemental list or lists on Form SS–15a Supplement, containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate.

(iv) The certificate shall be in effect for the period beginning with the first day following the close of the calendar quarter in which the certificate is filed, but in no case shall the effective period begin prior to January 1, 1951. Thus, if the certificate is filed on or before December 31, 1950, it will be in effect with respect to services performed in the employ of the organization on and after January 1, 1951. For provisions relating to termination of the waiver, see subparagraphs (3) and (4) of this paragraph. The certificate is not terminated if the organization loses its exemption under section 101 (6) of the Internal Revenue Code, but continues effective with respect to any subsequent periods during which the organization is so exempt.

(v) Services performed in the employ of an organization which has duly filed a certificate are not excepted from employment under section 1426 (b) (9) (B) of the act, during the period for which the certificate is in effect, if such services are performed by an employee (*a*) whose signature appears on the list filed by the organization on Form SS–15a, or on Form SS–15a Supplement, or (*b*) who becomes an employee of the organization after the calendar quarter in which the certificate is filed. Consequently, the taxes imposed under the act will apply to the organization and to each employee whose services constitute employment and whose signature appears on the accompanying list or on any supplemental list or lists filed within the prescribed time, commencing with the first day following the close of the calendar quarter in which the certificate is filed. Such taxes will also apply immediately with respect to services which constitute employment performed by any individual who enters the employ of the organization on or after the first day following the close of the calendar quarter in which the certificate is filed. A former employee of the organization who is rehired after the certificate becomes effective shall be considered to have entered the employ of the organization after the effective date of the certificate, regardless of whether or not such individual concurred in the filing of the certificate.

(3) *Termination of waiver by organization.* (i) The period for which the certificate is in effect may be terminated by the organization upon giving two years' advance notice in writing to the collector with whom the organization is filing returns of its desire to terminate the effect of the certificate at the end of a specified calendar quarter, but only if, at the time of the receipt of such notice by the collector, the certificate has been in effect for a period of not less than eight years. The notice of termination shall be signed by the president or other principal officer of the organization. Such notice shall be dated and shall show (*a*) the title of the officer signing the notice, (*b*) the name, address, and identification number of the organization, (*c*) the collector with whom the certificate was filed, (*d*) the date on which the certificate became effective, and (*e*) the date on which the certificate is to be terminated. No particular form is prescribed for the notice of termination.

(ii) In computing the effective period which must precede the date of receipt of the notice of termination, there shall be disregarded any period or periods as to which the organization is not exempt from income tax under section 101 (6) of the Internal Revenue Code.

(iii) The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. The notice of revocation shall be filed with the collector with whom the notice of termination was filed. The notice of revocation shall be signed by the president or other principal officer of the organization. Such notice shall be dated and shall show (*a*) the title of the officer signing the notice, (*b*) the name, address, and identification number of the organization, and (*c*) the date of the notice of termination to be revoked. No particular form is prescribed for the notice of revocation.

(4) *Termination of waiver by Commissioner.* (i) The period for which the certificate is in effect may be terminated by the Commissioner, with the prior concurrence of the Federal Security Administrator, upon a finding by the Commissioner that the organization has failed to comply substantially with the requirements of the act or is no longer able to comply therewith. The Commissioner shall give the organization not less than sixty days' advance notice in writing that the period covered by the certificate will terminate at the end of the calendar quarter specified in the notice of termination.

(ii) The notice of termination may be revoked by the Commissioner, with the prior concurrence of the Federal Security Administrator, by giving written notice of revocation to the organization prior to the close of the calendar quarter specified in the notice of termination.

SECTION 1426 (b) (10) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(10) Service performed by an individual as an employee or employee representative as defined in section 1532; (Sec. 1426 (b) (10), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

SECTION 1532 OF THE INTERNAL REVENUE CODE

DEFINITIONS

As used in this subchapter [subchapter B, chapter 9, Internal Revenue Code]—

(a) *Employer.* The term "employer" means any carrier (as defined in subsection (h) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other association, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been

or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) *Employee.* The term "employee" means any individual in the service of one or more employers for compensation: *Provided, however,* That the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if (i) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence will have been established to the satisfaction of the Railroad Retirement Board before July 1947; or (ii) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive; or (iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in clause (ii); or (iv) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights: *Provided,* That an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last pay-roll period before August 29, 1935, in which he rendered service to a carrier he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such pay-roll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a).

The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(c) *Employee representative.* The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 44 Stat. 577 (U. S. C., Title 45, c. 18), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) *Service.* An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to subsection (c) of section 1 of the Railroad Retirement Act of 1937 shall be applicable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(e) *Compensation.* The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 1500. Compensation which is earned during the period for which the Commissioner shall require a return of taxes under this subchapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 1500 and 1520, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and (1) such compensation is earned before April 1, 1940, and the taxes thereon under such sections, are not paid before July 1, 1940, or (2) such compensation is earned after March 31, 1940.

A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(f) *United States.* The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(g) *Company.* The term "company" includes corporations, associations, and joint-stock companies.

(h) *Carrier.* The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

* * * * *

(Sec. 1532, I. R. C., as amended by sec. 3, Act of June 11, 1940, 54 Stat. 264; sec. 1, Act of Aug. 13, 1940, 54 Stat. 785; sec. 27 (a), Act of Oct. 10, 1940, 54 Stat. 1101; sec. 14, Act of Apr. 8, 1942, 56 Stat. 209; secs. 1, 3 (e), (f), Act of July 31, 1946, 60 Stat. 722, 724, 725.)

§ 408.217 *Railroad industry; employees and employee representatives under section 1532 of the Internal Revenue Code.* Services performed by an individual as an "employee" or as an "employee representative", as those terms are defined in section 1532 of subchapter B of chapter 9 of the Internal Revenue Code, are excepted from employment. (For definitions of employee and employee representative, see such section and the regulations issued pursuant to such subchapter B.)

SECTION 1426 (b) (11) (A) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(11) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101, if the remuneration for such service is less than $50; (Sec. 1426 (b) (11) (A), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

SECTION 101 OF THE INTERNAL REVENUE CODE

EXEMPTIONS FROM TAX ON CORPORATIONS

Except as provided in supplement U, the following organizations shall be exempt from taxation under this chapter [chapter 1—income tax]—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation. For loss of exemption under certain circumstances, see sections 3813 and 3814;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) does not exceed $75,000;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

(18) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received;

(19) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any paragraph of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this paragraph the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

Notwithstanding supplement U, an organization described in this section (other than in the preceding paragraph) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes. (Sec. 101, I. R. C., as amended by sec. 217, Revenue Act of 1939, 53 Stat. 876; secs. 101, 137 (a), 165 (a), Revenue Act of 1942, 56 Stat. 802, 836, 872; and as amended, effective with respect to taxable years beginning after December 31, 1950, by secs. 301 (b), (c) (1), 303, 332 (c), Revenue Act of 1950, 64 Stat. 953, 954, 959.)

SECTION 11 (b) OF THE SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950 (64 STAT. 997)

No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board requiring such organization to register under section 7.

§ 408.218 *Organizations exempt from income tax; remuneration less than $50 for calendar quarter.* (a) Services performed by an employee in a calendar quarter in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code are

excepted from employment, if the remuneration for the services is less than $50. The exception applies separately with respect to each organization for which the employee renders services in a calendar quarter. The type of services performed by the employee and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed and the amount of the remuneration for services performed by the employee in the calendar quarter.

Example (1). X is a local lodge of a fraternal organization and is exempt from income tax under section 101 (3) of the Internal Revenue Code. X has two paid employees, A, who serves exclusively as recording secretary for the lodge, and B, who performs services for the lodge as janitor of its clubhouse. For services performed during the first calendar quarter of 1951 (that is, January 1, 1951, through March 31, 1951, both dates inclusive) A earns a total of $30. For services performed during the same calendar quarter B earns $180. Since the remuneration for the services performed by A during such quarter is less than $50, all of such services are excepted, and the tax does not attach with respect to any of the remuneration for such services. Since the remuneration for the services performed by B during such quarter, however, is not less than $50, none of such services are excepted, and the tax attaches with respect to all of the remuneration for such services (that is, $180) as and when paid.

Example (2). The facts are the same as in example (1), above, except that on April 1, 1951, A's salary is increased and, for services performed during the calendar quarter beginning on that date (that is, April 1, 1951, through June 30, 1951, both dates inclusive), A earns a total of $60. Although all of the services performed by A during the first quarter were excepted, none of A's services performed during the second quarter are excepted since the remuneration for such services is not less than $50. The tax attaches with respect to all of the remuneration for services performed during the second quarter (that is, $60) as and when paid.

Example (3). The facts are the same as in example (1), above, except that A earns $120 for services performed during the year 1951, and such amount is paid to him in a lump sum at the end of the year. The services performed by A in any calendar quarter during the year are excepted if the portion of the $120 attributable to services performed in that quarter is less than $50. If, however, the portion of the $120 attributable to services performed in any calendar quarter during the year is not less than $50, the services during that quarter are not excepted, and the tax attaches with respect to that portion of the remuneration attributable to his services in that quarter. The test is the amount earned in a calendar quarter and not the amount paid in a calendar quarter.

(b) See § 408.216, relating to services performed in the employ of religious, charitable, educational, and other organizations exempt from income tax under section 101 (6) of the Internal Reyenue Code; § 408.215, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 408.219, relating to services performed in the employ of a school, college, or university by certain students; and § 408.222, relating to services performed by certain student nurses and hospital internes.

SECTION 1426 (b) (11) (B) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(11) (B) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university; (Sec. 1426 (b) (11) (B), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531).

§ 408.219 *Students employed by schools, colleges, or universities.* (a) Services performed in the employ of a school, college, or university (whether or not such organization is exempt from income tax under section 101 of the Internal Revenue Code) are excepted from employment, if the services are performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) For purposes of this exception, the amount of remuneration for services performed by the employee in the calendar quarter, the type of services performed by the employee, and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed, and the status of the employee as a student enrolled and regularly attending classes at the school, college, or university in the employ of which he performs the services.

(c) The status of the employee as a student performing the services shall be determined on the basis of the relationship of such employee with the organization for which the services are performed. An employee who performs services in the employ of a school, college, or university as an incident to and for the purpose of pursuing a course of study at such school, college, or university has the status of a student in the performance of such services.

(d) The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(e) For provisions relating to domestic service performed by a student in a local college club, or local chapter of a college fraternity or sorority, see § 408.209.

SECTION 1426 (b) (12) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(12) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative); (Sec. 1426 (b) (12), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

§ 408.220 *Foreign governments.* (a) Services performed by an employee in the employ of a foreign government are excepted from employment. The exception includes not only services performed by ambassadors, ministers, and other diplomatic officers and employees but also services performed as a consular or other officer or employee of a foreign government, or as a nondiplomatic representative thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial. It is also immaterial whether the foreign government grants an equivalent exemption with respect to similar services performed in the foreign country by citizens of the United States.

SECTION 1426 (b) (13) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(13) Service performed in the employ of an instrumentality wholly owned by a foreign government—

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(B) If the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof: (Sec. 1426 (b) (13), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

§ 408.221 *Wholly owned instrumentalities of a foreign government.* (a) Services performed by an employee in the employ of certain instrumentalities of a foreign government are excepted from employment. The exception includes all services performed in the employ of an instrumentality of the government of a foreign country, if:

(1) The instrumentality is wholly owned by the foreign government;

(2) The services are of a character similar to those performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(3) The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial.

SECTION 1426 (b) (14) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law; (Sec. 1426 (b) (14), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

§ 408.222 *Student nurses and hospital internes.* (a) Services performed as a student nurse in the employ of a hospital

or a nurses' training school are excepted from employment, if the student nurse is enrolled and regularly attending classes in a nurses' training school, and such nurses' training school is chartered or approved pursuant to State law.

(b) Services performed as an interne (as distinguished from a resident doctor) in the employ of a hospital are excepted from employment, if the interne has completed a four years' course in a medical school chartered or approved pursuant to State law.

SECTION 1426 (b) (15) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(15) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States); (Sec. 1426 (b) (15), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 531.)

§ 408.223 *Fishing*—(a) *In general.* Subject to the limitations prescribed in paragraphs (b) and (c) of this section, the services described in this paragraph are excepted from employment. Services performed by an individual in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish (for example, oysters, clams, and mussels), crustacea (for example, lobsters, crabs, and shrimps), sponges, seaweeds, or other aquatic forms of animal and vegetable life are excepted from employment. The exception extends to services performed as an officer or member of the crew of a vessel while the vessel is engaged in any such activity whether or not the officer or member of the crew is himself so engaged. In the case of an individual who is engaged in any such activity in the employ of any person, the services performed, by such individual in the employ of such person, as an ordinary incident to any such activity are also excepted from employment. Similarly, for example, the shore services of an officer or member of the crew of a vessel engaged in any such activity are excepted if such services are an ordinary incident to any such activity. Services performed as an ordinary incident to any such activity may include, for example, services performed in such cleaning, icing, and packing of fish as are necessary for the immediate preservation of the catch.

(b) *Salmon and halibut fishing.* Services performed in connection with the catching or taking of salmon or halibut, for commercial purposes, are not within the exception. Thus, neither the services of an officer or member of the crew of a vessel (irrespective of its tonnage) which is engaged in the catching or taking of salmon or halibut, for commercial purposes, nor the services of any other individual in connection with such activity, are within the exception.

(c) *Vessels of more than 10 net tons.* Services described in paragraph (a) of this section performed on or in connection with a vessel of more than 10 net tons are not within the exception. For purposes of the exception, the tonnage of the vessel shall be determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

SECTION 1426 (b) (16) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(16) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or (Sec. 1426 (b) (16), I. R. C., as amended by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 532.)

§ 408.224 *Delivery and distribution of newspapers, shopping news, and magazines*—(a) *In general.* Subparagraph (A) of section 1426 (b) (16) of the act excepts from employment certain services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news. This exception is dealt with in paragraph (b) of this section. Subparagraph (B) of section 1426 (b) (16) excepts from employment certain services in the sale of newpapers or magazines without regard to the age of the individual performing the services. Such exception is dealt with in paragraph (c) of this section.

(b) *Services of individuals under age 18.* Services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, are excepted from employment. Thus, the services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted from employment. The services are excepted irrespective of the form or method of compensation. Incidental services by the employee who makes the house-to-house delivery, such as services in assembling newspapers, are considered to be within the exception. The exception continues only during the time that the employee is under the age of 18.

(c) *Services of individuals of any age.* Services performed by an employee in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, are excepted from employment. The services are excepted whether or not the employee is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back. Moreover, the services are excepted without regard to the age of the employee. Services performed other than at the time of sale to the ultimate consumer are not within the exception. Thus, the services of a regional distributor which are antecedent to but not immediately part of the sale to the ultimate consumer are not within the exception. However, incidental services by the employee who makes the sale to the ultimate consumer, such as services in assembling newspapers or in taking newspapers or magazines to the place of sale, are considered to be within the exception.

SECTION 1426 (b) (17) OF THE ACT

The term "employment" means * * * any service, of whatever nature, performed after 1950 * * *; except that * * * such term shall not include—

(17) Service performed in the employ of an international organization. (Sec. 1426 (b) (17), I. R. C., as added by sec. 204 (a), Social Security Act Amendments of 1950, 64 Stat. 532.)

SECTION 3797 (a) (18) OF THE INTERNAL REVENUE CODE

INTERNATIONAL ORGANIZATION

The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act. (Sec. 3797 (a) (18), I. R. C., as added by sec. 4 (i), Act of Dec. 29, 1945, 59 Stat. 671.)

SECTION 1 OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

[Title I, Act of Dec. 29, 1945, 59 Stat. 669]

For the purposes of this title [International Organizations Immunities Act], the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the

abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

§ 408.225 *International organizations.* Subject to the provisions of section 1 of the International Organizations Immunities Act, services performed in the employ of an international organization as defined in section 3797 (a) (18) of the Internal Revenue Code are excepted from employment.

SECTION 1426 (a) OF THE ACT

WAGES

The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to $3,600 with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to $3,600 to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraph of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical or hospitalization expenses in connection with sickness or accident disability, or (D) death;

(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(5) Any payment made to, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6);

(6) The payment by an employer (without deduction from the remuneration of the employee) (A) of the tax imposed upon an employee under section 1400, or (B) of any payment required from an employee under a State unemployment compensation law;

(7) (A) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business or for domestic service in a private home of the employer;

(B) Cash remuneration paid by an employer in any calendar quarter to an employee for domestic service in a private home of the employer, if the cash remuneration paid in the quarter for such service is less than $50 or the employee is not regularly employed by the employer in such quarter of payment. For the purposes of this subparagraph, an employee shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during the quarter the employee performs for the employer for some portion of the day domestic service in a private home of the employer, or (ii) the employee was regularly employed (as determined under clause (i)) by the employer in the performance of such service during the preceding calendar quarter. As used in this subparagraph, the term "domestic service in a private home of the employer" does not include service described in subsection (h) (5);

(8) Remuneration paid in any medium other than cash for agricultural labor;

(9) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of sixty-five, if he did not work for the employer in the period for which such payment is made; or

(10) Remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d) (3) (C) (relating to home workers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than $50. (Sec. 1426 (a), I. R. C., as amended by sec. 203 (a), (d), Social Security Act Amendments of 1950, 64 Stat. 525, 528.)

SECTION 1426 (j) OF THE ACT

COMPUTATION OF WAGES IN CERTAIN CASES

For purposes of this subchapter, in the case of domestic service described in subsection (a) (7) (B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount shall, under such conditions and to such extent as may be prescribed by regulations made under this subchapter, be computed to the nearest dollar. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to $1. The amount of any payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of subsection (a) (7) (B). (Sec. 1426 (j), I. R. C., as amended by sec. 204 (e), (g), Social Security Act Amendments of 1950, 64 Stat. 536, 536.)

SECTION 1420 (e) OF THE ACT

FEDERAL SERVICE

In the case of the taxes imposed by this subchapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, the determination whether an individual has performed service which constitutes employment as defined in section 1426, the determination of the amount of remuneration for such service which constitutes wages as defined in such section, and the return and payment of the taxes imposed by this subchapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 1410 with respect to such service without regard to the $3,600 limitation in section 1426 (a) (1), and he shall not be required to obtain a refund of the tax paid under section 1410 on that part of the remuneration not included in wages by reason of section 1426 (a) (1). The provisions of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. (Sec. 1420 (e), I. R. C., as added by sec. 202 (b), (d), Social Security Act Amendments of 1950, 64 Stat. 524, 525.)

SECTION 1427 OF THE ACT

DEDUCTIONS AS CONSTRUCTIVE PAYMENTS

Whenever under this subchapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this subchapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

§ 408.226 *Wages*—(a) *In general.* (1) Whether remuneration paid on or after January 1, 1951, for employment performed after December 31, 1936, constitutes wages is determined under section 1426 (a) of the act. This section of the regulations in this part and § 408.227 (relating to exclusions from wages) apply with respect only to remuneration paid on or after January 1, 1951, for employment performed after December 31, 1936. Whether remuneration paid after December 31, 1936, and prior to January 1, 1940, for employment performed after December 31, 1936, constitutes wages shall be determined in accordance with the applicable provisions of Part 401 of this chapter (Regulations 91). Whether remuneration paid after December 31, 1939, and prior to January 1, 1951, for employment performed after December 31, 1936, constitutes wages shall be determined in accordance with the applicable provisions of Part 402 of this chapter (Regulations 106).

(2) The term "wages" means all remuneration for employment unless specifically excepted under section 1426 (a) of the act (see § 408.227).

(3) The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages within the meaning of the act if paid as compensation for employment.

(4) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

(5) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment. See, however, paragraphs (g) and (j) of § 408.227, relating to the treatment of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, for domestic service in a private home of the employer, for agricultural labor, or for services described in section 1426 (d) (3) (C) (relating to home workers).

(6) Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for employment if such facilities or privileges are of relatively small valve and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees. The term "facilities or privileges", however, does not ordinarily include the value of meals or lodging furnished, for example, to restaurant or hotel employees, or to seamen or other employees aboard vessels, since generally these items constitute an appreciable part of the total remuneration of such employees.

(7) Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(8) Remuneration for employment, unless such remuneration is specifically excepted under section 1426 (a), constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by B during the month of January 1951 in employment and is entitled to receive remuneration of $100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1951. On February 15, 1951 (when A is no longer an employee of B), B pays A the remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the act, and the tax is payable with respect thereto.

(b) *Certain items included as wages*—(1) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(2) *Deductions by an employer from wages of an employee.* The amount of any tax which is required by section 1401 (a) of the act to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages, and is deemed to be paid to the employee as wages at the time that the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the act, or any act of Congress, or the law of any State, requires or permits such deductions and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

§ 408.227 *Exclusions from wages*—(a) *$3,600 limitation*—(1) *In general.* (i) The term "wages" does not include that part of the remuneration paid within any calendar year beginning after December 31, 1950, by an employer to an employee which exceeds the first $3,600 of remuneration (exclusive of remuneration excepted from wages in accordance with paragraphs (b) through (k) of this section) paid within such calendar year by such employer to such employee for employment performed for him at any time after December 31, 1936.

(ii) The $3,600 limitation applies only if the remuneration received during any one calendar year by an employee from the same employer for employment performed after 1936 exceeds $3,600. The limitation in such case relates to the amount of remuneration received during any one calendar year for employment after 1936 and not to the amount of remuneration for employment performed in any one calendar year.

Example (1). Employee A, in 1951, receives $3,000 from employer B on account of $3,500 due him for employment performed in 1951. In 1952 A receives from employer B the balance of $500 due him for employment performed in the prior year (1951), and thereafter in 1952 also receives $3,500 for employment performed in 1952 for employer B. The $3,000 received in 1951 is subject to tax in 1951. The balance of $500 received in 1952 for employment during 1951 is subject to tax in 1952, as is also the first $3,100 paid of the $3,500 for employment during 1952 (this $500 for 1951 employment added to the first $3,100 paid for 1952 employment constitutes the maximum wages which could be received by A in 1952 from any one employer). The final $400 received by A from B in 1952 is not included as wages and is not subject to the tax.

(iii) If during a calendar year the employee receives remuneration from more than one employer, the limitation of wages to the first $3,600 of remuneration received applies, not to the aggregate remuneration received from all employers with respect to employment performed after 1936, but instead to the remuneration received during such calendar year from each employer with respect to employment performed after 1936. In such case the first $3,600 received during the calendar year from each employer constitutes wages and is subject to the tax, even though, under section 1401 (d) of the act, the employee may be entitled to a refund of any amount of employee tax deducted from his wages which exceeds the employee tax with respect to the first $3,600 of wages received during the calendar year from all employers. (In this connection and in connection with the two examples immediately following, see section 408,802, relating to special refunds of employee tax on wages over $3,600. In connection with the application of the $3,600 limitation, see also subparagraph (2) of this paragraph, relating to the circumstances under which wages paid by a predecessor employer are deemed to be paid by his successor.)

Example (2). During 1951 employee C receives from employer D a salary of $600 a month for employment performed for D during the first seven months of 1951, or total remuneration of $4,200. At the end of the sixth month C has received $3,600 from employer D, and only that part of his total remuneration from D constitutes wages subject to the tax. The $600 received by employee C from employer D in the seventh month is not included as wages and is not subject to the tax. At the end of the seventh month C leaves the employ of D and enters the employ of E. C receives remuneration of $720 a month from employer E in each of the remaining five months of 1951, or total remuneration of $3,600 from employer E. The entire $3,600 received by C from employer E constitutes wages and is subject to the tax. Thus, the first $3,600 received from employer D and the entire $3,600 received from employer E constitute wages.

Example (3). During the calendar year 1951 F is simultaneously an officer (an employee) of the X Corporation, the Y Corporation, and the Z Corporation and during such year receives a salary of $3,600 from each corporation. Each $3,600 received by F from each of the corporations X, Y, and Z (whether or not such corporations are related) constitutes wages and is subject to the tax.

(2) *Wages paid by predecessor attributed to successor.* (i) If an employer (hereinafter referred to as a successor) during any calendar year beginning after December 31, 1950, acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and if immediately after the acquisition the successor employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for purposes of the application of the $3,600 limitation set forth in subparagraph (1) of this paragraph, any remuneration (exclusive of remuneration excepted from wages in accordance with paragraphs (b) through (k) of this section) with respect to employment paid (or considered under this

provision as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor.

(ii) The wages paid, or considered as having been paid, by a predecessor to an employee shall, for purposes of the $3,600 limitation, be treated as having been paid to such employee by a successor, if:

(a) The successor during a calendar year acquired substantially all the property used in a trade or business, or used in a separate unit of a trade or business, of the predecessor;

(b) Such employee was employed in the trade or business of the predecessor immediately prior to the acquisition and is employed by the successor in his trade or business immediately after the acquisition; and

(c) Such wages were paid during the calendar year in which the acquisition occurred and prior to such acquisition.

(iii) The method of acquisition of the property is immaterial. The acquisition may occur as a consequence of a corporate merger or consolidation, the incorporation of a business by a sole proprietor or a partnership, the continuance of the business without interruption by a new partnership resulting from the death or retirement of a former partner or the admission of a new partner, or a purchase or any other transaction whereby substantially all the property used in a trade or business, or used in a saparate unit of a trade or business, of one employer is acquired by another employer.

(iv) Substantially all the property used in a separate unit of a trade or business may consist of substantially all the property used in the performance of an essential operation of the trade or business, or it may consist of substantially all the property used in a relatively self-sustaining entity which forms a part of the trade or business.

Example (1). The M Corporation which is engaged in the manufacture of automobiles, including the manufacture of automobile engines, discontinues the manufacture of the engines and transfers all the property used in such manufacturing operation to the N Company. The N Company is considered to have acquired a separate unit of the trade or business of the M Corporation, namely, its engine manufacturing unit.

Example (2). The R. Corporation which is engaged in the operation of a chain of grocery stores transfers one of such stores to the S Company. The S Company is considered to have acquired a separate unit of the trade or business of the R Corporation.

(v) A successor may receive credit for wages paid to an employee by a predecessor only if immediately prior to the acquisition the employee was employed by the predecessor in his trade or business which was acquired by the successor and if immediately after the acquisition such employee is employed by the successor in his trade or business (whether or not in the same trade or business in which the acquired property is used). If the acquisition involves only a separate unit of a trade or business of the predecessor, the employee need not have been employed by the predecessor in that unit provided he was employed in the trade or business of which the acquired unit was a part.

(vi) The application of the foregoing provisions may be illustrated by the following example:

Example (3). The Y Corporation in 1951 acquires all the property of the X Manufacturing Company and immediately after the acquisition employs in its trade or business employee A, who, immediately prior to the acquisition, was employed by the X Company. The X Company has in 1951 (the calendar year in which the acquisition occurs) and prior to the acquisition paid $2,000 of wages to A. The Y Corporation in 1951 pays to A remuneration with respect to employment of $2,000. Only $1,600 of such remuneration is considered to be wages. For the purposes of the $3,600 limitation, the Y Corporation is credited with the $2,000 paid to A by the X Company. If, in the same calendar year, the property is acquired by the Z Company from the Y Corporation and A immediately after the acquisition is employed by the Z Company in its trade or business, no part of the remuneration paid to A by the Z Company in the year of the acquisition will be considered to be wages. The Z Company will be credited with the remuneration paid to A by the Y Corporation and also with the wages paid to A by the X Company (considered for purposes of the application of the $3,600 limitation as having also been paid by the Y Corporation).

(vii) Where a corporation exempt from income tax under section 101 (6) of the Internal Revenue Code files a certificate pursuant to section 1426 (1) of the act waiving its exemption from the taxes imposed by the act, the activity in which such corporation is engaged is considered to be its trade or business for the purpose of determining whether the transferred property was used in the trade or business of the predecessor and for the purpose of determining whether the employment by the predecessor and the successor of an individual whose services were retained by the successor constitute employment in a trade or business. Thus, if a charitable or religious organization, subject to tax by virtue of its certificate, acquires all the property of another such organization likewise subject to tax and retains the services of employees of the predecessor, wages paid to such employees by the predecessor in the year of the acquisition (and prior to such acquisition) will be attributed to the successor for purposes of the $3,600 limitation.

(b) *Employers' plans providing for payments on account of retirement, sickness or accident disability, medical or hospitalization expenses, or death.* (1) The term "wages" does not include the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

(i) An employee's retirement,

(ii) Sickness or accident disability of an employee or any of his dependents,

(iii) Medical or hospitalization expenses in connection with sickness or accident disability of an employee or any of his dependents, or

(iv) Death of an employee or any of his dependents.

(2) The plan or system established by an employer need not provide for payments on account of all of the specified items, but such plan or system may provide for any one or more of such items. Payments for any one or more of such items under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(3) Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(4) It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

(c) *Retirement payments.* The term "wages" does not include any payment made by an employer to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of the employee's retirement. Thus, payments made to an employee on account of his retirement are excluded from wages under this exception even though not made under a plan or system.

(d) *Payments on account of sickness or accident disability, or medical or hospitalization expenses.* The term "wages" does not include any payment made by an employer to, or on behalf of, an employee on account of the employee's sickness or accident disability or the medical or hospitalization expenses in connection with the employee's sickness or accident disability, if such payment is made after the expiration of six calendar months following the last calendar month in which such employee worked for such employer. Such payments are excluded from wages under this exception even though not made under a plan or system. If the employee does not actually perform services for the employer during the requisite period, the existence of the employer-employee relationship during that period is immaterial.

(e) *Payments from or to certain tax-exempt trusts or under or to certain annuity plans.* The term "wages" does not include—

(1) Any payment made by an employer, on behalf of an employee or his beneficiary, into a trust or annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) of the Internal Revenue Code or the annuity plan meets the requirements of section 165 (a) (3), (4), (5), and (6) of the Internal Revenue Code; or

(2) Any payment made to, or on behalf of, an employee or his beneficiary from a trust or under an annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) of the Code or the annuity plan meets

the requirements of section 165 (a) (3), (4), (5), and (6) of the Code.

A payment made to an employee of a trust exempt from tax under section 165 (a) of the Code for services rendered as an employee of such trust and not as a beneficiary of the trust is not within this exclusion from wages.

(f) *Payment by an employer of employees' tax or employees' contributions under a State law.* The term "wages" does not include any payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of either (1) the employee tax imposed by section 1400 of the act, or (2) any payment required from an employee under a State unemployment compensation law.

(g) *Payments other than in cash for certain types of services.* (1) The term "wages" does not include remuneration paid in any medium other than cash (i) for services not in the course of the employer's trade or business, (ii) for domestic service in a private home of the employer, or (iii) for agricultural labor. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, clothing, car tokens, transportation passes, farm products, or other goods or commodities, for services of the prescribed character does not constitute wages. Remuneration paid in any medium other than cash for services other than those mentioned in (i), (ii), and (iii) of this subparagraph does not come within this exclusion from wages.

(2) For provisions relating to the circumstances under which services not in the course of the employer's trade or business or agricultural labor does not constitute employment, see §§ 408.210 and 408.208, respectively. For provisions relating to the circumstances under which cash remuneration for domestic service in a private home of the employer or for industrial home work does not constitute wages, see paragraphs (h) and (j) of this section, respectively.

(h) *Cash payments for domestic service.* (1) The term "wages" does not include cash remuneration paid in any calendar quarter by an employer to an employee for domestic servcie in a private home of the employer unless—

(i) The cash remuneration paid by the employer to the employee in the calendar quarter for such service is $50 or more; and

(ii) Such employee is regularly employed by such employer in the calendar quarter in which the payment is made.

Unless the tests set forth in subdivisions (i) and (ii) of this subparagraph, are met, cash remuneration for domestic service in a private home of the employer is excluded from wages.

(2) Services of a household nature performed by an employee in or about a private home of the person by whom he is employed constitute domestic service in a private home of the employer. A private home is a fixed place of abode of an individual or family. A separate and distinct dwelling unit maintained by an individual in an apartment house, hotel, or other similar establishment may constitute a private home. If a dwelling house is utilized primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, it is not a private home. In general, services of a household nature in or about a private home include services performed by cooks, waiters, butlers, housekeepers, governesses, maids, valets, baby sitters, janitors, laundresses, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. Remuneration for the services above enumerated is not within this exclusion from wages unless performed in or about a private home of the employer. Remuneration for services not of a household nature, such as services performed as a private secretary, tutor, or librarian, even though performed in the employer's home, is not within this exclusion from wages.

(3) The test relating to cash remuneration of $50 or more is based on the remuneration paid in a calendar quarter rather than on the remuneration earned during a calendar quarter. Furthermore, in determining whether $50 or more has been paid for domestic service in a private home of the employer, only cash remuneration for such service shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(4) For purposes of this exclusion, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(i) Such individual performs domestic service in a private home of such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(ii) Such individual was regularly employed (as determined under subdivision (i)) in the performance of domestic service in a private home of such employer during the preceding calendar quarter (including the last calendar quarter of 1950).

(5) In determining whether an employee has performed domestic service in a private home of the employer on at least 24 days during a calendar quarter, there shall be counted as one day—

(i) Any day or portion thereof on which the employee actually performs such service; and

(ii) Any day or portion thereof on which the employee does not perform domestic service in a private home of the employer but with respect to which remuneration is paid or payable to the employee for such service, such as a day on which the employee is sick or on vacation.

An employee who reports for work and, at the direction of his employer, holds himself in readiness to perform domestic service in a private home of the employer shall be considered to be engaged in the actual performance of such service. For purposes of this exclusion, a day is a period of 24 hours commencing at midnight and ending at midnight.

(6) An employer may, for purposes of the act, elect to compute to the nearest dollar any payment of cash remuneration for domestic service in a private home of the employer which is more or less than a whole-dollar amount. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to one dollar. For example, any amount actually paid between $4.50 and $5.49, inclusive, may be treated as $5.00 for purposes of the act. If an employer elects this method of computation with respect to any payment of cash remuneration made in a calendar quarter for domestic service in his private home, he must use the same method in computing each payment of cash remuneration of more or less than a whole-dollar amount made to each of his employees in such calendar quarter for domestic service in his private home. Moreover, if an employer elects this method of computation with respect to payments of the prescribed character made in any calendar quarter, the amount of each payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, be deemed to constitute the amount of cash remuneration for purposes of the regulations in this part. Thus, the amount of cash payments so computed to the nearest dollar shall be used for purposes of determining whether such payments constitute wages; for purposes of applying the employee and employer tax rates to the wage payments; for purposes of any required record keeping; and for purposes of reporting and paying the employee tax and employer tax with respect to such wage payments.

(7) Domestic service in a private home of the employer performed on a farm operated for profit and services not in the course of the employer's trade or business are not within this exclusion from wages. For provisions relating to domestic service in a private home of the employer performed on a farm operated for profit and services not in the course of the employer's trade or business, see §§ 408.208 and 408.210, respectively.

(8) For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for domestic service in a private home of the employer, see paragraph (g) of this section.

(i) *Payments to stand-by employees.* The term "wages" does not include any payment (other than vacation or sick pay) made by an employer to an employee after the calendar month in which the employee attains age 65, if:

(1) Such employee does no work (other than being subject to call for the performance of work) for such employer in the period for which such payment is made; and

(2) The employer-employee relationship exists between the employer and

employee throughout the period for which such payment is made.

Vacation or sick pay is not within this exclusion from wages. If the employee does any work for the employer in the period for which the payment is made, no remuneration paid by such employer to such employee with respect to such period is within this exclusion from wages. For example, if employee A is employed by the X Company on a standby basis and, after he has attained the age of 65, is paid $200 by the X Company for being subject to call during the month of January 1951 and an additional $25 for work performed for the X Company on one day during that month, then none of the $225 is excluded from wages under this exception.

(j) *Payments to certain home workers.* (1) The term "wages" does not include remuneration paid by an employer in any calendar quarter to an employee for services performed as a home worker who is an employee by reason of the provisions of section 1426 (d) (3) (C) of the act (see § 408.204 (d)), unless the cash remuneration paid in such quarter by the employer to the employee for such services is $50 or more. In the event an employee receives remuneration in any one calendar quarter from more than one employer for services performed as a home worker of the afore-mentioned character, this provision is to be applied with respect to the remuneration received by the employee from each employer in such calendar quarter for such services. This exclusion from wages has no application to remuneration for services performed by a home worker who is an employee by reason of the provisions of section 1426 (d) (2) of the act (see § 408.204 (c)).

(2) The test relating to cash remuneration of $50 or more is based on remuneration paid in a calendar quarter rather than on remuneration earned during a calendar quarter. If $50 or more of cash remuneration is paid in a particular calendar quarter, it is immaterial whether the $50 is in payment for services performed during the quarter of payment or during any previous quarter. Furthermore, the test requires that cash remuneration of $50 or more be paid for services performed by an employee as defined in section 1426 (d) (3) (C) of the act. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. If the cash remuneration paid by an employer in any calendar quarter for services performed by an employee as defined in section 1426 (d) (3) (C) of the act is $50 or more, then no remuneration, whether in cash or in any medium other than cash, paid by the employer to the employee in such calendar quarter for such services is excluded from wages under this exception.

(k) *Miscellaneous.* In addition to the exclusions specified in paragraphs (a) through (j) of this section, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 1426 (b) of the act;

(2) Remuneration for services which are deemed not to be employment under section 1426 (c) of the act; and

(3) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer.

Subpart C—Employee Tax

Section 1400 of the Act

Rate of tax

In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 1426 (a)) received by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

(2) With respect to wages received during the calendar years 1950 to 1953, both inclusive, the rate shall be 1½ per centum.

(3) With respect to wages received during the calendar years 1954 to 1959, both inclusive, the rate shall be 2 per centum.

(4) With respect to wages received during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ per centum.

(5) With respect to wages received during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 per centum.

(6) With respect to wages received after December 31, 1969, the rate shall be 3¼ per centum. (Sec. 1400, I. R. C., as amended by sec. 1, Social Security Act Amendments of 1947, 61 Stat. 793; sec. 201 (a), Social Security Act Amendments of 1950, 64 Stat. 524.)

§ 408.301 *Measure of employee tax.* The employee tax is measured by the amount of wages actually or constructively received on or after January 1, 1951, with respect to employment on or after January 1, 1937. (See §§ 408.202 and 408.203, relating to employment, and §§ 408.226 and 408.227, relating to wages.)

§ 408.302 *Rates and computation of employee tax.* (a) The rates of employee tax applicable for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive	1½
For the calendar years 1954 to 1959, both inclusive	2
For the calendar years 1960 to 1964, both inclusive	2½
For the calendar years 1965 to 1969, both inclusive	3
For the calendar year 1970 and subsequent calendar years	3¼

(b) The employee tax is computed by applying to the wages received by the employee the rate in effect at the time such wages are received.

Example. During 1953 A is an employee of B and is engaged in the performance of services which constitute employment (see § 408.203). In the following year, 1954, A receives from B $1,000 as remuneration for services performed by A in the preceding year. The tax is payable at the 2 percent rate in effect for the calendar year 1954 (the year in which the wages are received) and not at the 1½ percent rate which is in effect for the calendar year 1953 (the year in which the services are performed).

§ 408.303 *When employee tax attaches.* The employees tax attaches at the time that the wages are either actually or constructively received by the employee. Wages are constructively received when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute receipt in such a case the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their receipt brought within his own control and disposition. (See § 408.403, relating to the time the employer tax attaches.)

Section 1401 (a) and (b) of the Act

Deduction of tax from wages

(a) *Requirement.* The tax imposed by section 1400 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid.

(b) *Indemnification of employer.* Every employer required so to deduct the tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

Section 3661 of the Internal Revenue Code

Enforcement of liability for taxes collected

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

§ 408.304 *Collection of, and liability for, employee tax.* (a) The employer shall collect from each of his employees the employee tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from such wages as and when paid, either actually or constructively. The employer is required to collect the tax, notwithstanding the wages are paid in something other than money and to pay the tax to the collector in money. (As to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, for domestic service in a private home of the employer, or for agricultural labor, see § 408.227 (g).) In collecting employee tax, the employer shall disregard any fractional part of a cent of such tax unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. The employer is liable for the employee tax with respect to all wages paid by him to each of his employees whether or not it is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nev-

ertheless liable for the correct amount of the tax. Until collected from him the employee is also liable for the employee tax with respect to all the wages received by him. Any employee tax collected by or on behalf of an employer is a special fund in trust for the United States. The employer is indemnified against the claims and demands of any person for the amount of any payment of such tax made by the employer to the collector.

(b) Section 2707 of the Internal Revenue Code provides severe penalties for a willful failure to pay, collect, or truthfully account for and pay over, the employee tax or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

§ 408.305 *Manner and time of payment of employee tax.* The employee tax is payable to the collector in the manner and at the time prescribed in § 408.607.

SECTION 1633 OF THE INTERNAL REVENUE CODE

RECEIPTS FOR EMPLOYEES

(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 1400 or 1622, or who would have been required to deduct and withhold a tax under section 1622 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement, showing the following: (1) the name of such person, (2) the name of the employee (and his social security account number if wages as defined in section 1426 (a) have been paid), (3) the total amount of wages as defined in section 1621 (a), (4) the total amount deducted and withheld as tax under section 1622, (5) the total amount of wages as defined in section 1426 (a), and (6) the total amount deducted and withheld as tax under section 1400. * * *

(b) *Statements to constitute information returns.* The statements required to be furnished by this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe. A duplicate of any such statement if made and filed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary shall constitute the return required to be made in respect to such remuneration under section 147.

(c) *Extension of time.* The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any person a reasonable extension of time (not in excess of thirty days) with respect to the statements required to be furnished under this section. (Sec. 1633, I. R. C., as added by sec. 206 (a), (c), Social Security Act Amendments of 1950, 64 Stat. 537, 538.)

SECTION 1634 OF THE INTERNAL REVENUE CODE

PENALTIES

(a) *Penalties for fraudulent statement or failure to furnish statement.* In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(b) *Additional penalty.* In addition to the penalty provided by subsection (a) of this section, any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of $50. Such penalty shall be assessed and collected in the same manner as the tax imposed by section 1410. (Sec. 1634, I. R. C., as added by sec. 206 (a), (c), Social Security Act Amendments of 1950, 64 Stat. 537, 538.)

§ 408.306 *Receipts for employees—* (a) *Requirement.* Every employer shall furnish a written statement, with respect to the wages paid during any calendar year commencing after December 31, 1950, to each of his employees. For the requirements as to the furnishing of a written statement to an employee from whom an employer was required during the calendar year to deduct and withhold employee tax under section 1400 of the act and from whom the employer was also required during such year to deduct and withhold a tax under section 1622 of the Internal Revenue Code (income tax collected at source on wages) or would have been required during such year to deduct and withhold a tax under such section if such employee had claimed no more than one withholding exemption, see the regulations under subchapter D of chapter 9 of the Internal Revenue Code. If during the calendar year an employer pays to an employee wages subject only to the employee tax imposed by section 1400 of the act, the written statement required to be furnished to such employee shall be in accordance with the provisions of this section. Such statement shall be in a form suitable for retention by the employee and shall show, with respect to the wages paid by the employer to the employee during the calendar year for employment on or after January 1, 1937, the following: (1) The name of the employer, (2) the name and social security account number of the employee, (3) the total amount of wages paid, and (4) the total amount of employee tax deducted and withheld from such wages (increased by any adjustment in such year for overcollection, or decreased by any adjustment in such year for undercollection, of employee tax during any prior year). If (i) the amount of employee tax deducted in the calendar year from such wages was less or greater than the tax imposed on such wages by reason of the adjustment in such year of an overcollection or undercollection of employee tax in any prior year, or (ii) regardless of the reason for the error or the method of its correction, the amount of wages or employee tax entered on a statement furnished to the employee for a prior year was incorrect, a corrected statement for such prior year reflecting the adjustment or the correct data shall be furnished to the employee. The statement for the calendar year and the corrected statement for any prior year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year or, if his employment is terminated before the close of the calendar year, on the day on which the last payment of wages is made. No particular form is prescribed for the statement required to be furnished to employees under this section. For the convenience of employers in complying with the requirements of this section, copies of a form of written statement, Form SS–14, have been provided and will be furnished employers by collectors upon application therefor.

(b) *Extension of time for furnishing receipts to employees.* An extension of time, not exceeding 30 days, within which to furnish the written statement provided for in paragraph (a) of this section upon termination of employment is hereby granted to any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is a reasonable expectation on the part of both the employer and employee of further employment, there is no requirement that a written statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from that time.

(c) *Penalties for fraudulent receipt or failure to furnish receipt.* Criminal and civil penalties are imposed for the willful failure to furnish a statement in the manner, at the time, and showing the information required by law or regulations prescribed thereunder or for willfully furnishing a false or fraudulent statement. For each such violation, the criminal penalty is a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the civil penalty is a fine of $50. The civil penalty is assessable and collectible in the same manner as the employer tax. Such penalties are in lieu of any other penalties provided by law respecting the failure to furnish a statement or the furnishing of a false or fraudulent statement.

SUBPART D—EMPLOYER TAX

SECTION 1410 OF THE ACT

RATE OF TAX

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 1426 (a)) paid by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

(2) With respect to wages paid during the calendar years 1950 to 1953, both inclusive, the rate shall be 1½ per centum.

(3) With respect to wages paid during the calendar years 1954 to 1959, both inclusive, the rate shall be 2 per centum.

(4) With respect to wages paid during the calendar years 1960 to 1964, both inclusive, the rate shall be 2½ per centum.

(5) With respect to wages paid during the calendar years 1965 to 1969, both inclusive, the rate shall be 3 per centum.

(6) With respect to wages paid after December 31, 1969, the rate shall be 3¼ per centum. (Sec. 1410, I. R. C., as amended by sec. 2, Social Security Act Amendments of 1947, 61 Stat. 793; sec. 201 (b), Social Security Act Amendments of 1950, 64 Stat. 524.)

§ 408.401 *Measure of employer tax.* The employer tax is measured by the amount of wages actually or constructively paid on or after January 1, 1951, with respect to employment on or after January 1, 1937. (See §§ 408.202 and 408.203, relating to employment, and §§ 408.226 and 408.227, relating to wages.)

§ 408.402 *Rates and computation of employer tax.* (a) The rates of employer tax applicable for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive	1½
For the calendar years 1954 to 1959, both inclusive	2
For the calendar years 1960 to 1964, both inclusive	2½
For the calendar years 1965 to 1969, both inclusive	3
For the calendar year 1970 and subsequent calendar years	3¼

(b) The employer tax is computed by applying to the wages paid by the employer the rate in effect at the time such wages are paid.

§ 408.403 *When employer tax attaches.* The employer tax attaches at the time that the wages are either actually or constructively paid by the employer. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their payment brought within his own control and disposition. (See § 408.303, relating to the time the employee tax attaches.)

§ 408.404 *Liability for employer tax.* The employer is liable for the employer tax with respect to the wages paid to his employees for employment performed for him.

§ 408.405 *Manner and time of payment of employer tax.* The employer tax is payable to the collector in the manner and at the time prescribed in § 408.607.

Subpart E—Identification of Taxpayers

Section 1420 (a) and (c) of the Act

Collection and payment of taxes

(a) *Administration.* The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

(c) *Method of collection and payment.* Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this subchapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner, with the approval of the Secretary.

Section 1430 of the Act

Other laws applicable

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter. (Sec. 1430, I. R. C., as amended by sec. 903, Social Security Act Amendments of 1939, 53 Stat. 1400.)

Section 2709 of the Internal Revenue Code, Made Applicable by Section 1430 of the Act

Records, statements, and returns

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

§ 408.501 *Employers' identification numbers*—(a) *In general.* Except as provided in paragraph (b) of this section, every employer who on or after January 1, 1951, has in his employ one or more individuals in employment for wages, but who prior to such date has neither secured an identification number nor made application therefor, shall make an application, in duplicate, on Form SS–4 for an identification number. Each application, together with any supplementary statement, shall be prepared in accordance with the instructions and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. The employer shall file the application either with the collector for the district in which his principal place of business is located, or with the nearest field office of the Social Security Administration in the State in which such place of business is located, or, if the employer has no principal place of business within the United States, with the collector at Baltimore, Md. An employer who has no principal place of business but whose legal residence is in Puerto Rico or in the Virgin Islands shall file the application with the collector's office in Puerto Rico, or the collector's office in the Virgin Islands, as the case may be, or with the nearest field office of the Social Security Administration. The application shall be filed on or before the seventh day after the date on which employment for wages for such employer first occurs. Copies of Form SS–4 may be obtained from any collector or from any field office of the Social Security Administration. Each application shall be signed by (1) the individual, if the employer is an individual; (2) the president, vice president, or other principal officer, if the employer is a corporation; (3) a responsible and duly authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization; or (4) the fiduciary, if the employer is a trust or estate. An identification number will be assigned to the employer in due course upon the basis of information reported on the application required under this section. Identification numbers assigned to employers who are required to make application therefor shall be shown in their records, returns, and claims to the extent required by §§ 408.605, 408.607 (b), 408.609, and 408.801 and by the instructions relating to Form 941, Form 941 PR, and Form 941 V. I., and to Form 450.

(b) *Household employers.* An employer, other than an employer whose legal residence is in Puerto Rico or the Virgin Islands, who has in his employ only employees who are engaged exclusively in the performance of domestic service in his private home not on a farm operated for profit (see § 408.227 (h)) is not required to apply for an identification number, and the provisions of paragraph (a) of this section are not applicable with respect to such an employer.

§ 408.502 *Employees' account numbers.* (a) Every employee who on or after January 1, 1951, is in employment for wages, but who prior to such date has neither secured an account number nor made application therefor, shall make an application on Form SS–5 for an account number. Each application shall be prepared in accordance with the instructions and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Such employee shall file the application with the field office of the Social Security Administration nearest his place of employment, or, if the employee is not working within the United States, with the office of the Social Security Administration at Baltimore, Md. The application shall be filed on or before the seventh day after the date on which the employee first performs employment for wages, except that the application shall be filed on or before the date the employee leaves the employ of his employer if such date precedes such seventh day. Copies of Form SS–5 may be obtained from any field office of the Social Security Administration or from any collector. An account number will be assigned to the employee by the Social Security Administration in due course upon the basis of information reported on the application required under this section. A card showing the name and account number of an employee to whom an account number has been assigned will be furnished to the employee by the Social Security Administration.

(b) Any employee may have his account number changed at any time by

applying to a field office of the Social Security Administration and showing good reasons for a change. With that exception, only one account number will be assigned to an employee. Any employee whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS–5, should report such change or correction to a field office of the Social Security Administration. Copies of the form for making such reports may be obtained from any field office of the Administration.

§ 408.503 *Duties of employee with respect to his account number.* (a) An employee shall, on the day on which he enters the employ of any employer for wages, comply with subparagraph (1), (2), (3), or (4) of this paragraph:

(1) If the employee has been issued an account number card by the Social Security Administration and has the card available, the employee shall show it to the employer.

(2) If the employee does not have available the account number card issued to him by the Social Security Administration but knows what his account number is, and what his name is, exactly as shown on such card, the employee shall advise the employer of such number and name. Care must be exercised that the employer is correctly advised of such number and name.

(3) If the employee does not have an account number card but has available a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received, the employee shall show such receipt to the employer.

(4) If an employe is unable to comply with the requirement of subparagraph (1), (2), or (3) of this paragraph, the employee shall furnish to the employer an application on Form SS–5, completely filled in and signed by the employee. If a copy of Form SS–5 is not available, the employee shall in lieu thereof furnish to the employer a statement in writing, signed by the employee, setting forth the date of the statement, the employee's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and employee's sex and color, including a statement as to whether the employee has previously filed an application on Form SS–5 and, if so, the date and place of such filing. The furnishing of an executed form SS–5, or statement in lieu thereof, by the employee to the employer does not relieve the employee of his obligation to make an application on Form SS–5 and file it with the field office of the Social Security Administration as required by § 408.502. The provisions of this subparagraph are not applicable to an employee engaged exclusively in the performance of domestic service in a private home of his employer not on a farm operated for profit, or in the performance of agricultural labor, if the services are performed for an employer other than an employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in Puerto Rico or the Virgin Islands.

(For provisions relating to the duties of an employer when furnished the information required by subparagraph (1), (2), or (3) of this paragraph, and the disposition to be made by the employer of an executed Form SS–5 or a statement in lieu thereof furnished to him by the employee as required by subparagraph (4) of this paragraph, see § 408.504.)

(b) Every employee who, on the day on which he enters the employ of any employer for wages, has an account number card but for any reason does not show such card to the employer on such day shall promptly thereafter show the card to the employer. An employee who does not have an account number card on the day on which he enters the employ of any employer for wages shall, upon receipt of an account number card from the Social Security Administration, promptly show such card to the employer, if he is still in the employ of that employer. If an employee has left the employ of an employer when the employee receives an account number card from the Social Security Administration, he shall promptly advise the employer of his account number and name exactly as shown on such card. The account number originally assigned to an employee (or the number as changed in accordance with § 408.502) shall be used by the employee even though he enters the employ of other employers.

§ 408.504 *Duties of employer with respect to employees' account numbers*—(a) *When individual has entered his employ.* (1) Upon being shown the account number card issued to an employee by the Social Security Administration, the employer shall enter the account number and name, exactly as shown on the card, in his records, returns, and claims to the extent required by §§ 408.605 and 408.609, by the instructions relating to the applicable return form, and by § 408.801. Upon failure of an employee to show his employer his account number card when he enters the employ of the employer for wages, the employer shall request the employee to show him such card. If the employee has not been assigned an account number and has not filed an application therefor with a field office of the Social Security Administration, the employer shall, when the employee enters his employ for wages, inform the employee of his duties under §§ 408.502 and 408.503.

(2) With respect to an employee who on the day he enters the employ of an employer for wages does not show the employer an account number card issued to the employee by the Social Security Administration, the employer shall comply with subdivision (i), (ii), or (iii) of this subparagraph:

(i) If the employee advises the employer of his number and name as shown on his account number card, as provided in § 408.503 (a) (2) the employer shall enter such number and name in his records.

(ii) If the employee shows the employer, as provided in § 408.503 (a) (3), a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received from the employee, the employer shall enter in his records with respect to such employee the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the employee exactly as shown on the receipt. The receipt shall be retained by the employee.

(iii) If the employee furnishes to the employer, as provided in § 408.503 (a) (4), an executed Form SS–5 or statement in lieu thereof, the employer shall retain the form or statement for disposition as provided below.

(3) In any case in which the employee's account number is for any reason unknown to the employer at the time the employer's return is filed for any calendar quarter in which the employee receives wages from such employer—

(i) If the employee has shown to the employer, as provided in § 408.503 (a) (3), a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received from the employee, the employer shall enter on the return, with the entry with respect to the employee, the name and address of the employee exactly as shown on the receipt, the date of issue of the receipt, and the address of the issuing office; or

(ii) If the employee has furnished to the employer, as provided in § 408.503 (a) (4), an executed Form SS–5 or statement in lieu thereof, the employer shall attach such form or statement to the return for the first calendar quarter in which the employee receives wages from such employer and shall make and retain a copy thereof for use in preparing any additional copies required for attachment to any returns subsequently filed on which wages received by such employee from the employer are reported but on which neither an employee account number nor the required information relating to the receipt for an application for an account number is reported: or

(iii) If neither (i) nor (ii) of this subparagraph is applicable, the employer shall, except as provided in the first sentence of subparagraph (4) of this paragraph, attach to the return a Form SS–5 or statement, signed by the employer, setting forth as fully and clearly as practicable the employee's full name, his present or last known address, date and place of birth, father's full name, mother's full name before marriage, the employee's sex and color, and a statement as to whether an application for an account number has previously been filed by the employee and, if so, the date and place of such filing. The employer shall also insert in such Form SS–5 or statement an explanation of why he has not secured from the employee a Form SS–5 or statement signed by the employee as provided in § 408.503 (a) (4), and shall insert the word "Employer" as part of his signature.

(4) The provisions of subdivision (iii) of subparagraph (3) of this paragraph are not applicable with respect to an employee engaged exclusively in the performance of domestic service in a private home of his employer not on a farm operated for profit, or in the performance of agricultural labor, if the services are per-

formed for an employer other than an employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in Puerto Rico or the Virgin Islands. If any such employee has not furnished to the employer the information required by paragraph (a) (1), (2), or (3) of § 408.503 prior to the time the employer's return is filed for any calendar quarter in which the employee receives wages from such employer, the employer shall enter the word "Unknown" in the account number column of the return and (i) file with the return a statement showing the employee's name and address, or (ii) enter the employee's address on the return form immediately below the name of the employee.

(5) If the employee advises his employer what his name and account number are as shown on his account number card prior to the time the employer's return is filed and the employer enters such name and number on the return, the employer shall return to the employee any executed Form SS–5 or statement in lieu thereof furnished by the employee to the employer in accordance with § 408.503 (a) (4), together with any copy thereof retained by the employer in accordance with the provisions of subparagraph (3) (ii) of this paragraph.

(6) Employers may obtain copies of Form SS–5 from any field office of the Social Security Administration or from any collector.

(b) *Prospective employees.* While not mandatory, it is suggested that the employer advise any prospective employee who does not have an account number of the requirements of §§ 408.502 and 408.503.

Subpart F—Returns, Payment of Tax, and Records

Section 1420 of the Act

COLLECTION AND PAYMENT OF TAXES

(a) *Administration.* The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

* * * * *

(c) *Method of collection and payment.* Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this subchapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner, with the approval of the Secretary.

(d) *Fractional parts of a cent.* In the payment of any tax under this subchapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) *Federal service.* In the case of the taxes imposed by this subchapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, * * * the return and payment of the taxes imposed by this subchapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 1410 with respect to such service without regard to the $3,600 limitation in section 1426 (a) (1), and he shall not be required to obtain a refund of the tax paid under section 1410 on that part of the remuneration not included in wages by reason of section 1426 (a) (1). The provisions of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. (Sec. 1420, I. R. C., as amended by sec. 202 (b), (d), Social Security Act Amendments of 1950, 64 Stat. 524, 525.)

Section 3310 (f) of the Internal Revenue Code

RETURNS AND PAYMENT OF TAX

Discretion allowed Commissioner—(1) *Returns and payment of tax.* Notwithstanding any other provision of law relating to the filing of returns or payment of any tax imposed by chapter 9 * * *, the Commissioner may by regulations approved by the Secretary prescribe the period, for which the return for such tax shall be filed, the time for the filing of such return, the time for the payment of such tax, and the number of copies of the return required to be filed.

(2) *Use of Government depositaries.* The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this title, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the collector. (Sec. 3310 (f), I. R. C., as added by sec. 7 (a), Act of Aug. 27, 1949, 63 Stat. 668.)

Section 1430 of the Act

OTHER LAWS APPLICABLE

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter. (Sec. 1430, I. R. C., as amended by sec. 903, Social Security Act Amendments of 1939, 53 Stat. 1400.)

Section 2709 of the Internal Revenue Code, Made Applicable by Section 1430 of the Act

RECORDS, STATEMENTS, AND RETURNS

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

Section 2701 of the Internal Revenue Code, Made Applicable by Section 1430 of the Act

RETURNS

Every person liable for the tax * * * shall make * * * returns under oath * * * to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

Section 3603 of the Internal Revenue Code

NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

Section 3632 of the Internal Revenue Code

AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY

(a) *Internal Revenue personnel*—

(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.* Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

Section 3809 of the Internal Revenue Code

VERIFICATION OF RETURNS; PENALTIES OF PERJURY

(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may

require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required. (Sec. 3809, I. R. C., as added by sec. 4 (a), (c), Act of Aug. 27, 1949, 63 Stat. 667, 668.)

SECTION 3612 (a), (b), AND (c) OF THE INTERNAL REVENUE CODE

RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR

(a) *Authority of collector.* If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) *To make return.* Make a return, or

(2) *To amend collector's return.* Amend any return made by a collector or deputy collector.

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

SECTION 3614 (a) OF THE INTERNAL REVENUE CODE

EXAMINATION OF BOOKS AND WITNESSES

To determine liability of the taxpayer. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SECTION 2702 (a) OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1430 OF THE ACT

PAYMENT OF TAX

Date of payment. The tax shall, without asessment by the Commissioner or notice from the collector, be due and payable to the collector for the district in which is located the principal place of business, at the time fixed * * * for filing the return.

§ 408.601 *Tax and information returns*—(a) *In general.* Every employer shall make a tax and information return for the first calendar quarter after December 31, 1950, within which he pays wages, and for each subsequent calendar quarter (whether or not wages are paid therein) until he files a final return as required by § 408.603. Every employer required to make a tax and information return for the calendar quarter ended December 31, 1950, shall make a tax and information return for each subsequent calendar quarter (whether or not wages are paid therein) until he files a final return as required by § 408.603. Form 941 is the form prescribed for making a tax and information return, except as provided in paragraphs (b) and (c) of this section.

(b) *Domestic service in a private home not on a farm operated for profit.* Form 942 is the form prescribed for use by every employer in reporting wages paid by him for domestic service in a private home not on a farm operated for profit. If, however, in addition to paying such wages in the current calendar quarter the employer in such quarter or a prior calendar quarter also paid wages for other services and is required to make a tax and information return for such current quarter on Form 941, the employer, at his election, may—

(1) Report all wages on Form 941, or

(2) Report on Form 942 the wages for domestic service in a private home not on a farm operated for profit, and report on Form 941 the wages for other services.

An employer entitled to make the election referred to in the preceding sentence who has chosen one method shall not change to the other method without first notifying the collector with whom he is required to file his returns that he will thereafter use such other method. The provisions of this paragraph shall not apply to any employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in Puerto Rico or the Virgin Islands.

(c) *Employers in Puerto Rico and the Virgin Islands.* Form 941 PR is the form prescribed for use by every employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in Puerto Rico. Form 941 V. I. is the form prescribed for use by every employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in the Virgin Islands. However, Form 941 is the form prescribed for use by every such employer who is also required to deduct and withhold income tax at source on wages under section 1622 of the Internal Revenue Code.

§ 408.602 *When to report wages.* Wages shall be reported in the tax return for the period in which they are actually paid unless they were constructively paid in a prior tax-return period, in which case such wages shall be reported only in the return for such prior period.

§ 408.603 *Final returns.* (a) The last return on Form 941, Form 941 PR, or Form 941 V. I., for any employer who ceases to pay wages shall be marked "Final return" by the employer or the person filing the return. Such final return shall be filed with the collector on or before the thirtieth day after the date on which the final payment of wages is made for services performed for the employer, and shall plainly show the period covered by the return. If, however, an employer (other than an employer whose principal place of business, or whose legal residence if he has no principal place of business, is located in Puerto Rico or the Virgin Islands) ceases during a calendar quarter to pay wages for services other than for domestic service in a private home not on a farm operated for profit but pays wages in such calendar quarter for such domestic service which are reportable on Form 941 and expects to continue during such calendar quarter to pay wages for such domestic service, then such employer shall make a tax and information return on Form 941 for the entire calendar quarter. Such return shall be marked "Final return", irrespective of whether the employer expects to pay wages in the future for such domestic service, and shall be filed with the collector on or before the last day prescribed for the filing of returns under § 408.606. An employer required to make a return on Form 941, Form 941 PR, or Form 941 V. I., who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no wages are required to be reported the date of the last payment of wages and the date when he expects to resume paying wages to one or more employees. If an employer ceases to pay wages as defined in section 1426 (a) but continues to pay wages as defined in section 1621 (a), no final return on Form 941 should be filed so long as he continues to pay such wages. However, if an employer who has been paying remuneration which constitutes wages as defined in each of such sections permanently ceases to pay such wages, a final return is required of such employer.

(b) There shall be executed as part of each final return on Form 941, Form 941 PR, or Form 941 V. I., a statement giving the address at which the records required by § 408.609 will be kept, the name of the person keeping such records, and, if the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or other transfer took effect. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement. In the case of a final return on Form 941, the statement shall also set forth the date of the last payment of wages for services other than domestic service not on a farm operated for profit, and whether or not the employer will pay wages in the future for such domestic service. In the case of a final return on Form 941 PR or Form 941 V. I., the statement shall also set forth the date of the last payment of wages.

(c) The last return on Form 942 for any employer who ceases to pay wages for domestic service in a private home not on a farm operated for profit shall be marked "Final return" by the employer or the person filing the return.

§ 408.604 *Execution of returns*—(a) *Requirement.* Each return shall be signed by the employer and shall contain or be verified by a written declaration that it is made under the penalties of perjury. The return shall be signed and verified by (1) the individual, if the employer is an individual; (2) the president, vice president, or other principal officer, if the employer is a corporation; (3) a re-

sponsible and duly authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization; or (4) the fiduciary, if the employer is a trust or estate. The employer's return may be executed by an agent in the name of the employer if an acceptable power of attorney is filed with the collector and if such return includes the wages paid to all employees of the employer for the period covered by the return. In the case of the United States or any instrumentality which is wholly owned by the United States, the return shall be signed and verified by the head of the Federal agency or instrumentality having control of the services with respect to which the taxes are imposed, or by such agent or agents as such head may designate.

(b) *Penalties of perjury.* Section 3809 (a) of the Internal Revenue Code provides that any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony. The punishment for such offense, upon conviction thereof, is a fine of not more than $2,000 or imprisonment for not more than five years, or both.

§ 408.605 *Use of prescribed forms.* (a) Copies of the prescribed return forms will so far as possible be regularly furnished employers by collectors without application therefor. An employer will not be excused from making a return, however, by the fact that no return form has been furnished to him. Employers not supplied with the proper forms should make application therefor to the collector in ample time to have their returns prepared, verified, and filed with the collector on or before the due date. (See § 408.606, relating to the place and time for filing returns; see also § 408.603, relating to final returns.) If the prescribed form is not available, a statement made by the employer disclosing the amount of wages paid during the period for which a return is required and the amount of taxes due may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the employer from liability for the addition to tax imposed for the delinquent filing of the return (see § 408.909, relating to the addition to tax), provided that without unnecessary delay such tentative return is supplemented by a return made on the proper form.

(b) Each return, together with a copy thereof, if the return is filed on Form 941, Form 941 PR, or Form 941 V. I., and any supporting data, shall be filled in and disposed of in accordance with the instructions and regulations applicable thereto. (See § 408.606, relating to the place and time for filing returns, and § 408.609 (c) and (e), relating to copies of returns, schedules, and statements, and to the place and period for keeping records.) The return shall be carefully prepared so as fully and accurately to set forth the data therein called for. Returns which have not been so prepared will not be accepted as meeting the requirements of the act. Only one return on any one prescribed form for a tax-return period shall be filed by or for an employer. Any supplemental return filed for such period in accordance with § 408.702 of § 408.703 shall constitute a part of such return. Consolidated returns of parent and subsidiary corporations are not permitted.

(c) If in a return, or in any other manner, the employer fails to report, or incorrectly reports, to the collector, the name, account number, or wages of an employee, the employer shall fully advise the collector of the omission or error by letter; except that such letter is not required if the omission or error is corrected by adjustment, supplemental return, credit, refund, or abatement, within seven months after the date the correct data are ascertained. The employer shall include in such letter his identification number (except that an identification number need not be included if the omission or error is with respect to information required to be reported on a return on Form 942), each tax-return period for which the data were omitted or for which the incorrect data were furnished, the data incorrectly reported for each period, and the data which should have been reported. A copy of such letter shall be retained by the employer as a part of his records.

§ 408.606 *Place and time for filing returns.* Each return on Form 941 shall be filed with the collector for the district in which is located the principal place of business of the employer, or, if the employer has no principal place of business in the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico), with the collector at Baltimore, Md. Each return on Form 941 PR shall be filed with the collector's office in Puerto Rico, and each return on Form 941 V. I. shall be filed with the collector's office in the Virgin Islands. Each return on Form 942 shall be filed with the collector for the district in which is located the legal residence of the employer. Except as provided in § 408.603, relating to final returns, each return shall be filed on or before the last day of the first month following the period for which it is made. However, if, and only if, the return is accompanied by depositary receipts, Form 450, showing timely deposits, in full payment of the taxes due for the entire calendar quarter, the return may be filed on or before the tenth day of the second month following the period for which it is made. For the purpose of the preceding sentence, the timeliness of the deposit will be determined by the date of the endorsement by a designated commercial bank or by a Federal Reserve bank made on the reverse side of Form 450. Deposit of the taxes for the last month of the calendar quarter with a designated commercial bank or a Federal Reserve bank, as the case may be, may be made on or before the last day of the first month following the close of such quarter. If the last day for filing any return falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the due date. As to additions to tax for failure to file a return within the prescribed time, see § 408.909. See also section 2707 of the Internal Revenue Code relating to penalties.

§ 408.607 *Payment of tax*—(a) *In general.* The employee tax and the employer tax required to be reported on each return on Form 941, Form 941 PR, Form 941 V. I., or Form 942 are due and payable to the collector, without assessment by the Commissioner or notice by the collector, at the time fixed for filing such return. For provisions relating to interest, additions to tax, and penalties, see §§ 408.907, 408.908, and 408.909 and section 2707 of the Internal Revenue Code.

(b) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of taxes*—(1) *Requirement.* Except as provided in subparagraph (2) of this paragraph, if during any calendar month, the aggregate amount of

(i) The employee tax withheld under section 1401,

(ii) The employer tax for such month under section 1410, and

(iii) The income tax withheld at source on wages under section 1622,

of the Internal Revenue Code, exclusive of taxes with respect to wages reportable on a return on Form 942, exceeds $100 in the case of an employer, it will be the duty of such employer to deposit such amount within 15 days after the close of such calendar month with a Federal Reserve bank. The remittance of such amount shall be accompanied by a Federal Depositary Receipt (Form 450). Such depositary receipt shall be prepared in accordance with the instructions and regulations applicable thereto. The employer, at his election, may forward such remittance, together with such depositary receipt, to a commercial bank authorized in accordance with Treasury Department Circular No. 848 to accept remittances of the aforementioned taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this section shall attach to his return for the calendar quarter with respect to which such deposits are made, in part or full payment of the taxes shown thereon, depositary receipts so validated, and shall pay to the collector the balance, if any, of the taxes due for such quarter.

(2) *Payments for last month of the calendar quarter.* With respect to the taxes specified in subparagraph (1) of this paragraph for the last month of the calendar quarter, the employer may either include with his return direct remittance to the collector for the amount of such taxes or attach to such return a depositary receipt validated by a Federal Reserve bank as provided in subparagraph (1) of this paragraph. Payment of the taxes required to be reported on each return, in the form of validated depositary receipts or direct

remittances, shall be made to the collector at the time fixed for filing such return. If a deposit is made for the last month of the quarter, the employer shall make it in ample time (whether before, on, or after the 15th day of the succeeding month) to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return at the time so fixed.

(3) *Procurement of prescribed form.* Initially, Form 450, Federal Depositary Receipt, will so far as possible be furnished the employer by the collector. An employer not supplied with the proper form should make application therefor to the collector in ample time to have such form available for use in making his initial deposit within the time prescribed in subparagraph (1) of this paragraph. Thereafter a blank form will be sent to the employer by the Federal Reserve bank when returning the validated depositary receipt. An employer may secure additional forms from a Federal Reserve bank by applying therefor and advising the bank of his identification number. The employer's identification number and name, on each depositary receipt, should be the same as they are required to be shown on the return to be filed with the collector. The address of the employer, as shown on each depositary receipt, should be the address to which the receipt should be returned following validation by the Federal Reserve bank.

§ 408.608 *When fractional part of cent may be disregarded.* In the payment of taxes to the collector a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent shall not be disregarded in the computation of taxes. See § 408.304 for provisions relating to fractional parts of a cent in connection with the deduction of employee tax from wages.

§ 408.609 *Records*—(a) *Records of employers.* (1) Every employer liable for tax shall keep accurate records of all remuneration paid to his employees after December 31, 1950, for services performed for him after December 31, 1936. Such records shall show with respect to each employee—

(i) The name, address, and account number of the employee (see § 408.504, relating to account numbers), and such additional information with respect to the employee as is required by § 408.504 (a) when the employee does not advise the employer what his account number and name are as shown on an account number card issued to the employee by the Social Security Administration;

(ii) To the extent material to the determination of tax liability, the dates on which the employee worked during each calendar quarter, including the days for which remuneration is paid or payable to the employee, and the character of the services performed (see §§ 408.210 and 408.227 (h), relating respectively to services not in the course of the employer's trade or business and to domestic service in a private home of the employer not on a farm operated for profit), and in addition, in the case of agricultural labor, whether such agricultural labor is performed on a full-time basis, and the date on which the employer-employee relationship commenced in each instance and, if terminated, the date of the termination thereof (see § 408.208, relating to agricultural labor);

(iii) The total amount (including any sum withheld therefrom as tax or for any other reason) and date of each remuneration payment and the period of services covered by such payment;

(iv) The amount of such remuneration payment which constitutes wages subject to tax (see §§ 408.226 and 408.227); and

(v) The amount of employee tax withheld or collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected.

The term "remuneration", as used in this paragraph, includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash (*a*) for services not in the course of the employer's trade or business, (*b*) for domestic service in a private home of the employer not on a farm operated for profit, or (*c*) for agricultural labor. (For provisions relating to the exclusion from wages of payments in a medium other than cash for such services, see § 408.227 (g).)

(2) If the total remuneration payment (subparagraph (1) (iii) of this paragraph) and the amount thereof which is taxable (subparagraph (1) (iv) of this paragraph) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of each adjustment or settlement made pursuant to § 408.702 or § 408.703 shall also be kept.

(3) No particular form is prescribed for keeping the records required by this paragraph (a). Each employer shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which the employer is liable are correctly computed and paid.

(b) *Records of employees.* While not mandatory, it is advisable for each employee to keep permanent, accurate records showing the name and address of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, the information with respect to himself which is required by paragraph (a) of this section to be kept by employers, and the receipts furnished in accordance with the provisions of § 408.306. (See, however, par. (d) of this section, relating to records of claimants.)

(c) *Copies of returns, schedules, and statements.* Every employer who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as part of his records.

(d) *Records of claimants.* Any person (including an employee) claiming refund, credit, or abatement of any tax, penalty, or interest shall keep a complete and detailed record with respect to such tax, penalty, or interest.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. If the employer has a principal place of business in the United States, the records required by paragraphs (c) and (d) of this section shall be kept at such place of business.

(2) Records required by paragraphs (a) and (c) of this section shall be maintained for a period of at least four years after the date the tax to which they relate becomes due, or the date the tax is paid, whichever is the later. Records required by paragraph (d) of this section (including any record required by paragraph (a) or (c) which relates to a claim) shall be maintained for a period of at least four years after the date the claim is filed.

SUBPART G—ADJUSTMENTS OF EMPLOYEE TAX AND EMPLOYER TAX

SECTION 1401 (c) OF THE ACT

ADJUSTMENTS

If more or less than the correct amount of tax imposed by section 1400 is paid with respect to any payment of remuneration, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as may be prescribed by regulations made under this subchapter. (Sec. 1401 (c), I. R. C., as amended by sec. 602 (a), Social Security Act Amendments of 1939, 53 Stat. 1382.)

SECTION 1401 (d) (4) (A) OF THE ACT

SPECIAL RULES IN CASE OF FEDERAL EMPLOYEES

In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year after the calendar year 1950, each head of a Federal agency or instrumentality who makes a return pursuant to section 1420 (e) and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for the purposes of subsection (c) * * *, be deemed a separate employer; * * *. (Sec. 1401 (d) (4) (A), I. R. C., as added by sec. 203 (c), Social Security Act Amendments of 1950, 64 Stat. 527.)

SECTION 1411 OF THE ACT

ADJUSTMENT OF TAX

If more or less than the correct amount of tax imposed by section 1410 is paid with respect to any payment of remuneration, proper adjustments with respect to the tax shall be made, without interest, in such manner and at such times as may be prescribed by regulations made under this subchapter. For the purposes of this section, in the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year after the calendar year 1950, each head of a Federal agency or instrumentality who makes a return pursuant to section 1420 (e) and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer. (Sec. 1411, I. R. C., as amended by sec. 605, Social Security Act Amendments of 1939, 53 Stat. 1383; sec. 202 (c), (d), Social Security Act Amendments of 1950, 64 Stat. 525.)

§ 408.701 *Adjustments in general.* Errors in the payment of employee tax and employer tax must be adjusted in certain cases without interest. Not all corrections of erroneous collections or payments of tax, however, constitute adjustments within the meaning of the act and the regulations in this part. The various situations under which such adjustments shall be made are set forth in § § 408.702 and 408.703, the provisions of which also relate to settlement other than by adjustment under certain circumstances set forth therein. No underpayment of employee tax or employer tax shall be reported pursuant to such sections after receipt from the collector of notice and demand for payment thereof based upon an assessment, but the amount shall be paid in accordance with such notice and demand. Every return on which an adjustment or settlement is reported pursuant to § 408.702 or § 408.703 must have securely attached as a part thereof a statement explaining the adjustment or settlement, designating the tax-return period in which the error was ascertained, and setting forth such other information as may be required by the regulations in this part and by the instructions relating to the return. If an adjustment of an overcollection of employee tax which an employer has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee. If the adjustment relates to an overcollection of employee tax in a prior year, the employer's statement explaining the adjustment shall also show that the employer has obtained from the employee a written statement that the employee has not claimed and will not claim refund or credit of the amount of such overcollection. (See § 408.702 (b) (2).) Amounts deducted from remuneration of an employee and other settlements between an employee and his employer, in correction of an overcollection or undercollection of employee tax, shall be reflected in the amounts shown on statements furnished by the employer to the employee in accordance with section 408.306, relating to receipts for employees. For purposes of this section and §§ 408.702 and 408.703, in the case of remuneration received from the United States or a wholly owned instrumentality thereof, each head of a Federal agency or instrumentality, and each agent designated by the head of a Federal agency or instrumentality, who makes a return pursuant to section 1420 (e) of the act is deemed to be a separate employer.

§ 408.702 *Adjustment of employee tax*—(a) *Undercollections*—(1) *Prior to filing of return.* If no employee tax or less than the correct amount of employee tax is deducted from any payment of wages to an employee and the error is ascertained prior to the time the return is filed with the collector for the period in which such wages are paid, the employer shall nevertheless report on such return and pay to the collector the correct amount of employee tax. However, the reporting and payment by the employer of the correct amount of such tax in accordance with this subparagraph do not constitute an adjustment, and the amount shall not be reported as an adjustment on the return.

(2) *After return is filed.* (i) If no employee tax or less than the correct amount of employee tax with respect to a payment of wages to an employee is reported on a return and paid to the collector, the employer shall adjust the underpayment by (*a*) reporting the additional amount due by reason of such underpayment as an adjustment on a return filed on or before the last day on which the return for the tax-return period in which the error is ascertained is required to be filed, or (*b*) reporting such additional amount on a supplemental return for the tax-return period in which such payment of wages is made. The reporting of such an underpayment on a supplemental return constitutes an adjustment within the meaning of this subparagraph only when the supplemental return is filed on or before the last day on which the return for the tax-return period in which the error is ascertained is required to be filed. (See § 408.605, relating in part to supplemental returns.) The amount of each underpayment adjusted in accordance with this subparagraph shall be paid to the collector, without interest, at the time fixed for reporting the adjustment. If an adjustment is reported pursuant to this subparagraph but the amount thereof is not paid when due, interest thereafter accrues.

(ii) If no employee tax or less than the correct amount of employee tax with respect to a payment of wages to an employee is reported on a return and paid to the collector and such underpayment is not reported as an adjustment within the time prescribed by this subparagraph, the amount of such underpayment shall be (*a*) reported on the employer's next return, or (*b*) reported immediately on a supplemental return. (For interest accruing on amounts so reported, see § 408.907.)

(3) *Deductions from employee.* If an employer collects no employee tax or less than the correct amount of employee tax from an employee with respect to wages received by the employee, the employer shall collect the amount of the undercollection by deducting such amount from remuneration of the employee, if any, under his control after he ascertains the error. Such deductions may be made even though the remuneration, for any reason, does not constitute wages. (See §§ 408.226 and 408.227, relating to wages.) If the employer ascertains the error prior to the time the return is required to be filed for the period in which such wages are paid, or if the employer ascertains the error subsequent to such time and the error is subject to adjustment under the provisions of subparagraph (2) of this paragraph, the deduction of the amount of the undercollection in correction of such error shall be made without interest. The obligation of the employee to the employer with respect to an undercollection of employee tax from the employee not subsequently corrected by a deduction made as prescribed in the foregoing provisions of this subparagraph is a matter for settlement between the employee and the employer. The amount of the employee tax, in the case of a prior undercollection thereof from the employee, shall be reported and paid as provided in subparagraphs (1) and (2) of this paragraph. If an employer makes an erroneous collection of employee tax from two or more of his employees, a separate settlement must be made with respect to each employee. Thus, an overcollection of employee tax from one employee may not be used to offset an undercollection of such tax from another.

(b) *Overcollections*—(1) *Prior to filing of return.* If an employer (i) during any tax-return period collects more than the correct amount of employee tax from any employee, and (ii) repays the amount of the overcollection to the employee prior to the time the return for such period is filed with the collector, and (iii) obtains and keeps as part of his records the written receipt of the employee, showing the date and amount of the repayment, the employer shall not report on any return or pay to the collector the amount of the overcollection. However, every overcollection not repaid to and receipted for by the employee as provided in this subparagraph must be reported and paid to the collector with the return for the period in which the overcollection was made.

(2) *After return is filed.* (i) If an employer collects from any employee and pays to the collector more than the correct amount of employee tax, the employer shall adjust the overcollection by repaying or reimbursing the employee in the amount thereof; except that an overcollection of employee tax in one calendar year is not adjustable in a subsequent calendar year unless the employer obtains from the employee a written statement that the employee has not claimed and will not claim refund or credit of the amount of such overcollection. (See section 408.801 (c), relating to refund claims by employees, and section 408.802, relating to special refunds of employee tax.) Such statement shall be retained by the employer as a part of his records.

(ii) If the amount of the overcollection is repaid, the employer shall obtain and keep as part of his records the written receipt of the employee, showing the date and amount of the repayment. (See § 408.701, relating in part to statements required in explanation of adjustments of overcollections of employee tax.)

(iii) If the employer does not repay the employee, the employer shall reimburse the employee by applying the amount of the overcollection against the employee tax which attaches to wages paid to the employee prior to the expiration of the tax-return period following the tax-return period in which the error is ascertained. If the amount of the overcollection exceeds the amount so applied against such employee tax, the excess amount shall be repaid to the employee as required by this subparagraph.

(iv) An overcollection is adjustable under this subparagraph only if it is completed prior to the expiration of the tax-return period following the tax-return period in which the error is ascertained by the employer, and then only

if the adjustment is reported on a return filed within the statutory period of limitation upon refunds and credits of the tax (see § 408.804, relating to the statutory period). A claim for credit or refund (in accordance with § 408.801) may be filed within the period of limitation upon refunds and credits for any overcollection which cannot be adjusted under this subparagraph.

§ 408.703 *Adjustment of employer tax*—(a) *Underpayments.* (1) If no employer tax or less than the correct amount of employer tax with respect to a payment of wages to an employee is reported on a return and paid to the collector, the employer shall adjust the underpayment by (i) reporting the additional amount due by reason of such underpayment as an adjustment on a return filed on or before the last day on which the return for the tax-return period in which the error is ascertained is required to be filed, or (ii) reporting such additional amount on a supplemental return for the tax-return period in which such payment of wages is made. The reporting of such an underpayment on a supplemental return constitutes an adjustment within the meaning of this paragraph only when the supplemental return is filed on or before the last day on which the return for the tax-return period in which the error is ascertained is required to be filed. (See § 408.605, relating in part to supplemental returns.) The amount of each underpayment adjusted in accordance with this paragraph shall be paid to the collector, without interest, at the time fixed for reporting the adjustment. If an adjustment is reported pursuant to this paragraph but the amount thereof is not paid when due, interest thereafter accrues.

(2) If no employer tax or less than the correct amount of employer tax with respect to a payment of wages to an employee is reported on a return and paid to the collector and such underpayment is not adjusted in accordance with the provisions of this paragraph, the amount of such underpayment shall be (i) reported on the employer's next return, or (ii) reported immediately on a supplemental return. (For interest accruing on amounts so reported, see § 408.907.)

(b) *Overpayments.* If (1) an employer pays more than the correct amount of employer tax with respect to any payment of remuneration, and (2) the employer is required under paragraph (b) of § 408.702 to adjust a corresponding overpayment of employee tax with respect to the same payment of remuneration to the employee, the employer shall adjust the overpayment of employer tax to the same extent and on the same return or returns on which the adjustment of employee tax is reported. The adjustment of employer tax shall be made by deducting the amount of the overpayment from the amount of employer tax reported on such return or returns. No overpayment shall be adjusted under this paragraph after the expiration of the statutory period of limitation upon refunds and credits of the tax (see § 408.804, relating to the statutory period). If an overpayment of employer tax is made with respect to a payment of remuneration to an employee, but no corresponding overpayment of employee tax is made with respect to the same payment of remuneration, the overpayment of employer tax is not adjustable under this paragraph. (See § 408.801, relating to refunds and credits.)

SUBPART H—REFUNDS, CREDITS, AND ABATEMENTS

SECTION 1421 OF THE ACT

OVERPAYMENTS

If more * * * than the correct amount of tax imposed by section 1400 or 1410 is paid or deducted with respect to any wage payment and the overpayment * * * of tax cannot be adjusted under section 1401 (c) or 1411 the amount of the overpayment shall be refunded * * * in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this subchapter.

SECTION 2703 (a) OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1430 OF THE ACT

ERRONEOUS PAYMENTS

In general. In the case of any overpayment or overcollection of the tax * * * the person making such overpayment or overcollection may take credit therefor against taxes due upon any * * * return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SECTION 3770 (a) OF THE INTERNAL REVENUE CODE

AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS

To taxpayers—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

* * * * *

(4) *Credit of overpayment of one class of tax against another class of tax due.* Notwithstanding any provision of law to the contrary, the Commissioner may, in his discretion, in lieu of refunding an overpayment of tax imposed by any provision of this title [Internal Revenue Code], credit such overpayment against any tax due from the taxpayer under any other provision of this title.

(5) *Delegation of authority to collectors to make refunds.* The Commissioner, with the approval of the Secretary, is authorized to delegate to collectors any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), * * * or (4) of this subsection, * * * where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000.

* * * * *

(Sec. 3770 (a), I. R. C., as amended by sec. 508 (b), Second Revenue Act of 1940, 54 Stat. 1008; sec. 9 (a), act of Aug. 27, 1949, 63 Stat. 669.)

SECTION 3477 OF THE UNITED STATES REVISED STATUTES

WHEN ASSIGNMENT OF CLAIMS VOID

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

* * * * *

§ 408.801 *Refund or credit of overpayments which are not adjustable; abatement of overassessment*—(a) *Who may make claims.* If more than the correct amount of tax, penalty, or interest is paid to the collector, the person who paid such tax, penalty, or interest to the collector may file a claim for refund of such overpayment or such person may take credit for the overpayment against any tax under the act reported on any return which he subsequently files. (See par. (e) of this section, relating in part to overpayments which are adjustable.) No refund or credit of employee tax shall be allowed if for any reason (for example, an overcollection of employee tax having been inadvertently included by the employee in computing a special refund—see § 408.802) the employee has claimed the amount thereof as a credit against, or refund of, his income tax unless such claim has been rejected. If more than the correct amount of tax, penalty, or interest is assessed but not paid to the collector, the person against whom the assessment is made may file a claim for abatement of such overassessment. (See also par. (c) of this section, relating to claims by employees.)

(b) *Statements supporting employers' claims for employee tax.* Every claim filed by an employer for refund, credit, or abatement of employee tax collected from an employee shall include a statement (1) that the employer has repaid the tax to the employee or has secured the written consent of such employee to allowance of the refund, credit, or abatement, and (2) that the employer has obtained from the employee a written statement that the employee has not claimed and will not claim refund or credit of the amount of the overcollection. In every such case, the employer shall maintain as part of his records the written receipt of the employee, showing the date and amount of the repayment, or the written consent of the employee, whichever is used in support of the claim,

and the written statement of the employee that he has not claimed and will not claim refund or credit of the amount of the overcollection. (See par. (d) of this section, relating to form of claims.)

(c) *Refund claims made by employees.* If (1) more than the correct amount of employee tax is collected by an employer from an employee and paid to the collector, and (2) such overcollection is not adjustable under § 408.702, and (3) the employee has not claimed reimbursement through credit against, or refund of, his income tax (or if so claimed, the claim has been rejected), and (4) the employee does not receive reimbursement in any manner from such employer and does not authorize the employer to file a claim and receive refund or credit, such employee may file a claim for refund of such overpayment. The employee shall submit with the claim a statement setting forth whether the employee has claimed credit against, or refund of, his income tax by reason of a special refund for the calendar year of such overcollection, and the amount, if any, so claimed. The employee shall also submit with the claim a statement setting forth the extent, if any, to which the employer has reimbursed the employee in any manner for the overcollection, the amount, if any, of credit or refund of such overpayment claimed by the employer or authorized by the employee to be claimed by the employer, and such facts as will establish that the overpayment is not adjustable under § 408.702. The employee shall obtain such statement, if possible, from the employer, who should include in such statement the fact that it is made in support of a claim against the United States to be filed by the employee for refund of employee tax paid by such employer to the collector of internal revenue. If the employer's statement is not submitted with the claim, the employee shall make the statement to the best of his knowledge and belief, and shall include therein an explanation of his inability to obtain the statement from the employer. (For provisions relating to special refunds of employee tax on wages over $3,600, see § 408.802.)

(d) *Form of claims.* (1) Each claim for refund or abatement under this section shall be made on Form 843 in accordance with the regulations in this part and with the instructions relating to such form, and shall designate the tax-return period in which the error was ascertained. Copies of Form 843 may be obtained from any collector. If credit is taken under this section, a claim on Form 843 is not required, but the return on which such credit is claimed shall have attached as a part thereof a statement which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, designating the tax-return period in which the error was ascertained, and showing such other information as is required by the regulations in this part or by the instructions relating to the return.

(2) Whenever a claim for refund, credit, or abatement is made with respect to remuneration which was erroneously reported on a return or schedule thereof, such claim shall include a statement showing (i) the identification number of the employer, if he was required to make application therefor, (ii) the name and account number of the employee for whom such remuneration was so reported, (iii) the period covered by such return or schedule, (iv) the amount of remuneration actually reported as wages for such employee, and (v) the amount of wages which should have been reported for such employee.

(e) *Limitations on claims.* No refund or credit will be allowed after the expiration of the applicable statutory period of limitations, except upon one or more of the grounds set forth in a claim filed prior to the expiration of such period. For provisions relating to the period of limitation upon refunds and credits, see § 408.804. No refund or credit of an overpayment will be allowed if such overpayment is adjustable under § 408.702 or § 408.703.

(f) *Claims improperly made.* Any claim which does not comply with the requirements of this section will not be considered for any purpose as a claim for refund, credit, or abatement.

(g) *Proof of representative capacity.* If a return is made by an individual who thereafter dies and a refund claim is made by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is made. If an executor, administrator, guardian, trustee, receiver, or other fiduciary makes a return and thereafter a refund claim is made by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was made by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is made by a fiduciary other than the one by whom the return was made, the necessary documentary evidence should accompany the claim. The claim may be executed by the agent of the person assessed, but in such case a power of attorney must accompany the claim.

SECTION 1401 (d) (3) AND (4) OF THE ACT

SPECIAL REFUNDS

(3) *Wages received after 1950.* If by reason of an employee receiving wages from more than one employer during any calendar year after the calendar year 1950, the wages received by him during such year exceed $3,600, the employee shall be entitled to a refund of any amount of tax, with respect to such wages, imposed by section 1400 and deducted from the employee's wages (whether or not paid to the collector), which exceeds the tax with respect to the first $3,600 of such wages received. Refund under this section may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax; except that no such refund shall be made unless (A) the employee makes a claim, establishing his right thereto, after the calendar year in which the wages were received with respect to which refund of tax is claimed, and (B) such claim is made within two years after the calendar year in which such wages were received. No interest shall be allowed or paid with respect to any such refund.

(4) *Special rules in the case of Federal and State employees.*—(A) *Federal employees.* In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year after the calendar year 1950, each head of a Federal agency or instrumentality who makes a return pursuant to section 1420 (e) and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for the purposes of * * * paragraph (3) of this subsection, be deemed a separate employer; and the term "wages" includes, for the purposes of paragraph (3) of this subsection, the amount not to exceed $3,600, determined by each such head or agent as constituting wages paid to an employee.

(B) *State employees.* For the purposes of paragraph (3) of this subsection, in the case of remuneration received during any calendar year after the calendar year 1950, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 1400" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 1400, if such services constituted employment as defined in section 1426; and the provisions of paragraph (3) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary of the Treasury. (Sec. 1401 (d) (3), (4), I. R. C., as added by sec. 203 (c), Social Security Act Amendments of 1950, 64 Stat. 527.)

SECTION 322 (a) (4) OF THE INTERNAL REVENUE CODE

CREDIT FOR "SPECIAL REFUNDS" OF EMPLOYEE SOCIAL SECURITY TAX

The Commissioner is authorized to prescribe, with the approval of the Secretary, regulations providing for the crediting against the tax imposed by this chapter [chapter 1—income tax] for any taxable year of the amount determined by the taxpayer or the Commissioner to be allowable under section 1401 (d) as a special refund of tax imposed on wages received during the calendar year in which such taxable year begins. If more than one taxable year begins in such calendar year, such amount shall not be allowed under this section as a credit against the tax for any taxable year other than the last taxable year so beginning. The amount allowed as a credit under such regulations shall, for the purposes of this chapter, be considered an amount deducted and withheld at the source as tax under subchapter D of chapter 9. (Sec. 322 (a) (4), I. R. C., as added by sec. 206 (b) (1), (c), Social Security Act Amendments of 1950, 64 Stat. 538.)

SECTION 48 (a) OF THE INTERNAL REVENUE CODE

TAXABLE YEAR

"Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Part [part IV, subchapter B, chapter 1]. "Taxable year" means, in the case of a return made for a

fractional part of a year under the provisions of this chapter [chapter 1—income tax] or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made. (Sec. 48 (a), I. R. C., as amended by secs. 101, 135 (d), Revenue Act of 1942, 56 Stat. 802, 835.)

§ 408.802 *Special refunds of employee tax on wages over $3,600*—(a) *In general.* If, during any calendar year commencing after December 31, 1950, an employee receives wages in excess of $3,600 from two or more employers, the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom (whether or not paid to the collector) exceeds the employee tax with respect to the first $3,600 of such wages. (See §§ 408.226 and 408.227, relating to wages.)

Example (1). Employee A in the calendar year 1951 receives taxable wages in the amount of $2,000 from each of his employers B, C, and D, for services performed during such year (or at any time after December 31, 1936), or a total of $6,000. Employee tax is deducted from A's wages, in the amount of $30 by B and $30 by C, or a total of $60. Employer D pays employee tax in the amount of $30 to the collector without deducting such tax from A's wages. The employee tax with respect to the first $3,600 of such wages is $54. A is entitled to a special refund of $6.

Example (2). Employee E in the calendar year 1951 performs employment for employers F and G, for which E is entitled to remuneration of $3,600 from each employer, or a total of $7,200. On account of such employment E in 1950 received an advance payment of $600 in wages from F; and in 1951 receives wages in the amount of $3,000 from F, and $3,600 from G. Employee tax was deducted as follows: in 1950, $9 by employer F; and in 1951, $45 by employer F, and $54 by employer G. Thus E in the calendar year 1951 received $6,600 in wages, from which $99 of employee tax was deducted. The amount of employee tax with respect to the first $3,600 of such wages received in 1951 is $54. E is entitled to a special refund of $45. (The $600 advance of wages received in 1950 from F, and $9 of employee tax with respect thereto, have no bearing in computing E's special refund for 1951, because the wages were not received in 1951; and such amounts could not form the basis for a special refund unless E during 1950 received from F and at least one more employer wages totaling more than $3,000, in which case E's right to refund would be determined under section 1401 (d) (2) of the act, which is dealt with in § 402.705 (c) of Regulations 106.)

(b) *Special rules pertaining to Federal and State employees*—(1) *Federal employees.* For the purpose of special refunds of employee tax, each head of a Federal agency or of a wholly owned instrumentality of the United States who makes a return pursuant to section 1420 (e) of the act (and each agent designated by a head of a Federal agency or instrumentality who makes a return pursuant to such section) is considered a separate employer. For such purpose, the term "wages" includes the amount, not in excess of $3,600, which each such head (or agent) determines to constitute wages paid an employee. For example, if wages received by an employee during any calendar year are reportable by two or more agents of one or more Federal agencies and the amount of such wages is in excess of $3,600, the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax with respect to the first $3,600 of such wages. Moreover, if an employee receives wages during any calendar year from an agency or wholly owned instrumentality of the United States from one or more other employers, either private or governmental, and the amount of such wages is in excess of $3,600, the employee shall similarly be entitled to a special refund.

(2) *State employees.* For the purpose of special refunds of employee tax, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act, relating to voluntary agreements for coverage of employees of State and local governments, as would be wages if such services constituted employment (see §§ 408.226 and 408.227, relating to wages); the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; and the term "tax" or "tax imposed by section 1400" includes an amount equivalent to the employee tax which would be imposed by section 1400 of the act if such services constituted employment. In the case of employees of a State or local government, the provisions of paragraph (a) of this section are applicable whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary. Thus, the special refund provisions are applicable to amounts equivalent to employee tax deducted in any calendar year from employees' remuneration by States, political subdivisions, or instrumentalities pursuant to agreements made under section 218 of the Social Security Act. Moreover, if an employee receives wages during any calendar year from a State, political subdivision, or instrumentality thereof and from one or more other employers, either private or governmetal, and the amount of such wages is in excess of $3,600, the special refund provisions are applicable with respect to such wages.

(c) *Claims for special refund*—(1) *In general.* No special refund of employee tax will be allowed unless (i) the employee files a claim, establishing his right thereto, after the calendar year in which the wages are received with respect to which the special refund of tax is claimed, and (ii) such claim is filed within two years after the calendar year in which such wages are received. Each such claim shall be made with respect to wages received within one calendar year (regardless of the year or years after 1936 during which the services are performed for which such wages are received).

(2) *Individual required to file income tax return.* If an employee is entitled to a special refund of employee tax with respect to wages received during any calendar year commencing after December 31, 1950, and is required under chapter 1 of the Internal Revenue Code to file an income tax return for such calendar year (or for his taxable year beginning in such calendar year or, if the employee has more than one taxable year beginning in such calendar year, for his last taxable year beginning in the calendar year), the employee shall claim credit for such refund on such income tax return in accordance with the applicable provisions of the regulations prescribed under chapter 1 of the Internal Revenue Code. As used herein, the term "taxable year" shall have the meaning assigned to it by section 48 (a) of the Internal Revenue Code, set forth above, and the regulations prescribed thereunder.

(3) *Individual not required to file income tax return.* If an employee is entitled to a special refund of employee tax with respect to wages received during any calendar year commencing after December 31, 1950, and is not required under chapter 1 of the Internal Revenue Code to file an income tax return for such calendar year (or for his taxable year beginning in such calendar year or, if the employee has more than one taxable year beginning in such calendar year, for his last taxable year beginning in the calendar year), the employee shall claim such refund in accordance with the provisions of this section. Each claim for special refund under this section shall be made on Form 843, in accordance with the regulations in this subpart and the instructions relating to such form, and shall be filed with the collector for the district in which the employee resides. The employee shall submit with the claim, as a part thereof, a statement setting forth the reason why he is entitled to claim the special refund in accordance with the regulations in this section, together with the following information, with respect to each employer from whom he received wages during the calendar year: (i) The name and address of such employer, (ii) the account number of the employee and the employee's name as reported by the employer on his returns, (iii) the amount of wages received during the calendar year to which the claim relates, (iv) the amount of employee tax on such wages deducted by the employer, and (v) the amount of such tax, if any, which has been refunded or otherwise returned to the employee. Other information may be required, but should be submitted only upon request. No interest will be allowed or paid by the Government on the amount of any special refund claimed on Form 843 in accordance with the provisions of this section.

SECTION 1422 OF THE ACT

ERRONEOUS PAYMENTS

Any tax paid under this subchapter by a taxpayer with respect to any period with respect to which he is not liable to tax under this subchapter shall be credited against the tax, if any, imposed by subchapter B upon such taxpayer, and the balance, if any, shall be refunded.

§ 408.803 *Credit and refund of taxes paid for period during which liability existed under subchapter B of chapter 9 of the Internal Revenue Code.* If any person pays any amount as tax under the Federal Insurance Contributions Act with respect to any period for which he is not liable for such tax and such per-

son is liable for a tax imposed by subchapter B of chapter 9 of the Internal Revenue Code, the amount paid as tax under the Federal Insurance Contributions Act shall be credited against the tax for which the person is liable under such subchapter and the balance, if any, shall be refunded. Each claim for refund under this section shall be made in accordance with § 408.801. Each claim for credit under this section shall be made on Form 843 in accordance with the instructions relating to such form and the applicable provisions of § 408.801. See section 1531 of subchapter B of chapter 9 of the Internal Revenue Code for credit or refund of amounts paid as tax under such subchapter for any period during which liability existed under the Federal Insurance Contributions Act.

SECTION 1636 OF THE ACT

PERIOD OF LIMITATION UPON REFUNDS AND CREDITS OF CERTAIN EMPLOYMENT TAXES

(a) *General rule.* In the case of any tax imposed by subchapter A * * * of this chapter—

(1) *Period of limitation.* Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) *Limit on amount of credit or refund.* The amount of the credit or refund shall not exceed the portion of the tax paid—

(A) If a return was filed, and the claim was filed within three years from the time the return was filed, during the three years immediately preceding the filing of the claim.

(B) If a claim was filed, and (i) no return was filed, or (ii) if the claim was not filed within three years from the time the return was filed, during the two years immediately preceding the filing of the claim.

(C) If no claim was filed and the allowance of credit or refund is made within three years from the time the return was filed, during the three years immediately preceding the allowance of the credit or refund.

(D) If no claim was filed, and (i) no return was filed or (ii) the allowance of the credit or refund is not made within three years from the time the return was filed, during the two years immediately preceding the allowance of the credit or refund.

(b) *Penalties, etc.* The provisions of subsection (a) of this section shall apply to any penalty or sum assessed or collected with respect to the tax imposed by subchapter A * * * of this chapter.

(c) *Date of filing return and date of payment of tax.* For the purposes of this section—

(1) If a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be considered paid on March 15 of such succeeding calendar year.

(d) *Application of section.* The provisions of this section shall apply only to those taxes imposed by subchapter A of this chapter * * * which are required to be collected and paid by making and filing returns.

(e) *Effective date.* The provisions of this section shall not apply to any tax paid or collected with respect to remuneration paid during any calendar year before 1951 or to any penalty or sum paid or collected with respect to such tax. (Sec. 1636, I. R. C., as added by sec. 207 (a), Social Security Act Amendments of 1950, 64 Stat. 538.)

§ 408.804 *Period of limitation upon refunds and credits—*(a) *In general.* Section 1636 of the Internal Revenue Code provides that, unless a claim for refund or credit of an overpayment of the tax imposed by the act with respect to remuneration paid during any calendar year commencing after December 31, 1950, is filed within three years from the time the return was filed, or within two years from the time the tax was paid, no refund or credit shall be allowed or made after the expiration of whichever of such periods expires the later. The section further provides that, if no return is filed, then no refund or credit of such overpayment shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed.

(b) *Limitation on amount of refund or credit.* The limitation on the amount of the refund or credit shall be determined in accordance with section 1636 (a) (2) of the Internal Revenue Code.

(c) *Limitation on penalties, etc.* The provisions of this section relative to the tax imposed by the act are also applicable to any penalty or other sum assessed or collected with respect to such tax.

(d) *Date of filing return and payment of tax.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, it shall be deemed filed on March 15 of such succeeding calendar year. Likewise, if any tax with respect to remuneration paid during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be deemed paid on March 15 of such succeeding calendar year.

SUBPART I—MISCELLANEOUS PROVISIONS

ASSESSMENT AND COLLECTION

SECTION 1421 OF THE ACT

UNDERPAYMENTS

If * * * less than the correct amount of tax imposed by section 1400 or 1410 is paid or deducted with respect to any wage payment and the * * * underpayment of tax cannot be adjusted under section 1401 (c) or 1411 * * * the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this subchapter.

§ 408.901 *Assessment of underpayments.* If any tax is not paid to the collector when due, the Commissioner may, as the circumstances warrant, assess the tax (whether or not the underpayment is otherwise adjustable) or afford the employer opportunity to adjust the underpayment pursuant to § 408.702 or § 408.703. Unpaid employer tax or employee tax may be assessed against the employer. Employee tax not collected by the employer may also be assessed against the employee. The unpaid amount, together with interest and penalty, if any, will be collected, pursuant to section 3655 of the Internal Revenue Code and other applicable provisions of law, from the person against whom the assessment is made. If an employer pays employee tax pursuant to an assessment against him without an adjustment having been made pursuant to § 408.702, reimbursement is a matter to be settled between the employer and the employee. (See § 408.907, relating to interest, and § 408.908, relating to penalty for failure to pay an assessment after notice and demand. See also § 408.902, relating to jeopardy assessments.)

SECTION 3660 OF THE INTERNAL REVENUE CODE

JEOPARDY ASSESSMENT

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 408.902 *Jeopardy assessments.* (a) Whenever, in the opinion of the collector, the collection of the tax will be jeopardized by delay, he should report the case promptly to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the tax-return period or periods involved, the amount of tax due for each period, the date any return was filed by or for the taxpayer for such period, a reference to any prior assessment made for such period against the taxpayer, and a statement as to the reason for the recommendation, which will enable the Commissioner to assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the collector will issue immediately a notice and demand for payment of the tax, penalty, and interest.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired and with such sureties as the collector deems necessary. Such bond shall be conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for the jeopardy assessment, such

amount would be due. In lieu of surety or sureties the taxpayer may deposit with the collector bonds or notes of the United States, or bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector in case of default to collect or sell such bonds or notes so deposited.

(c) Upon refusal to pay, or failure to pay or give bond, the collector will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period prescribed in section 3690 of the Internal Revenue Code.

SECTION 1635 OF THE INTERNAL REVENUE CODE

PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF CERTAIN EMPLOYMENT TAXES

(a) *General rule.* The amount of any tax imposed by subchapter A of this chapter * * * shall (except as otherwise provided in the following subsections of this section) be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

(b) *False return or no return.* In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) *Collection after assessment.* Where the assessment of any tax imposed by subchapter A of this chapter * * * has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayers.

(e) *Date of filing of return.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year.

(f) *Application of section.* The provisions of this section shall apply only to those taxes imposed by subchapter A of this chapter * * * which are required to be collected and paid by making and filing returns.

(g) *Effective date.* The provisions of this section shall not apply to any tax imposed with respect to remuneration paid during any calendar year before 1951. (Sec. 1635, I. R. C., as added by sec. 207 (a), Social Security Act Amendments of 1950, 64 Stat. 538.)

§ 408.903 *Period of limitation upon assessment and collection.* Section 1635 of the Internal Revenue Code provides, in general, for a three-year period of limitation on the assessment of the taxes imposed by the act with respect to remuneration paid during any calendar year commencing after December 31, 1950. This period of limitation is measured from the date the return is filed, except that if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be deemed filed on March 15 of such succeeding calendar year. For example, if quarterly returns are filed for the four quarters of 1951 on April 30, July 31, and October 31, 1951, and on January 31, 1952, the period of limitation for assessment with respect to the tax required to be reported on each such return is measured from March 15, 1952. However, if any of such returns is filed after March 15, 1952, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed. Where the tax is assessed within the statutory period of limitation, such tax may be collected by distraint or by a proceeding in court, if begun (a) within six years after the assessment of the tax, or (b) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer. In the case of a false or fradulent return with intent to evade tax or of a failure to file a return, and in the case of a willful attempt in any manner to defeat or evade tax, the tax required to be reported on the return may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment at any time.

SECTION 3811 OF THE INTERNAL REVENUE CODE

COLLECTION OF TAXES IN PUERTO RICO AND VIRGIN ISLANDS

(a) *Puerto Rico.* Notwithstanding any other provision of law respecting taxation in Puerto Rico, all taxes imposed * * * by subchapters A * * * of chapter 9, shall be collected under the direction of the Secretary and shall be paid into the Treasury of the United States as internal revenue collections. All provisions of the laws of the United States applicable to the administration, collection, and enforcement * * * of any tax imposed by subchapter A * * * of chapter 9, shall, in respect to such tax, extend to and be applicable in Puerto Rico in the same manner and to the same extent as if Puerto Rico were a State, and as if the term "United States" when used in a geographical sense included Puerto Rico.

(b) *Virgin Islands.* Notwithstanding any other provision of law respecting taxation in the Virgin Islands, all taxes imposed * * * by subchapter A of chapter 9, shall be collected under the direction of the Secretary and shall be paid into the Treasury of the United States as internal revenue collections. All provisions of the laws of the United States applicable to the administration, collection, and enforcement * * * of any tax imposed by subchapter A of chapter 9, shall, in respect to such tax, extend to and be applicable in the Virgin Islands in the same manner and to the same extent as if the Virgin Islands were a State, and as if the term "United States" when used in a geographical sense included the Virgin Islands.

(c) *Definition.* As used in this section, the term "tax" includes any penalty with respect to the tax, any addition to the tax, and any additional amount with respect to the tax, provided for by any law of the United States. (Sec. 3811, I. R. C., as added by sec. 208 (b), Social Security Act Amendments of 1950, 64 Stat. 543, and as amended by sec. 221 (i), (k), Revenue Act of 1950, 64 Stat. 946, 947.)

§ 408.904 *Collection of taxes in Puerto Rico and Virgin Islands.* All provisions of the laws of the United States relating to the administration, collection, and enforcement (such as the provisions relating to the ascertainment, return, determination, redetermination, assessment, collection, remission, credit, and refund) of any tax imposed by the act shall, in respect of such tax, extend to and be applicable in Puerto Rico and the Virgin Islands in the same manner and to the same extent as if Puerto Rico and the Virgin Islands were each a State, and as if the term "United States" when used in a geographical sense included Puerto Rico and the Virgin Islands.

MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS IN CASE OF RELATED EMPLOYEE TAX AND SELF-EMPLOYMENT TAX

SECTION 3812 OF THE INTERNAL REVENUE CODE

MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS AND OTHER PROVISIONS IN CASE OF RELATED TAXES UNDER DIFFERENT CHAPTERS

(a) *Self-employment tax and tax on wages.* In the case of the tax imposed by subchapter E of chapter 1 (relating to tax on self-employment income) and the tax imposed by section 1400 of subchapter A of chapter 9 (relating to tax on employees under the Federal Insurance Contributions Act)—

(1) (i) If an amount is erroneously treated as self-employment income, or

(ii) If an amount is erroneously treated as wages, and

(2) If the correction of the error would require an assessment of one such tax and the refund or credit of the other tax, and

(3) If at any time the correction of the error is authorized as to one such tax but is prevented as to the other tax by any law or rule of law (other than section 3761, relating to compromises),

then, if the correction authorized is made, the amount of the assessment, or the amount of the credit or refund, as the case may be, authorized as to the one tax shall be reduced by the amount of the credit or refund, or the amount of the assessment, as the case may be, which would be required with respect to such other tax for the correction of the error if such credit or refund, or such assessment, of such other tax were not prevented by any law or rule of law (other than section 3761, relating to compromises).

(b) *Definitions.* For the purposes of subsection (a) of this section, the terms "self-employment income" and "wages" shall have the same meaning as when used in section 481 (b). (Sec. 3812, I. R. C., as added by sec. 208 (b), Social Security Act Amendments of 1950, 64 Stat. 544.)

§ 408.905 *Mitigation of effect of statute of limitations in case of related employee tax and self-employment tax*—(a) *Application of section.* (1) Section 3812 of the Internal Revenue Code may be applied in the correction of a certain type of error involving both the tax on self-employment income and the employee tax under section 1400 of the act, if the correction of the error as to one tax is, on the date the correction is authorized, prevented in whole or in part by the operation of any law or rule of law other than section 3761 of the Internal Revenue Code, relating to compromises.

(2) If the liability for either tax with respect to which the error was made has been compromised under section 3761 of the Code, the provisions of section 3812 of the Code limiting the correction with respect to the other tax do not apply.

(3) Section 3812 of the Code is not applicable if, on the date of the authorization, correction of the effect of the

error is permissible as to both taxes without resource to such section.

(4) If, because an amount of wages (as defined in section 1426 (a) of the act) is erroneously treated as self-employment income (as defined in section 481 (b) of the Internal Revenue Code) or an amount of self-employment income is erroneously treated as wages, it is necessary in correcting the error to assess the correct tax and give a credit or refund for the amount of the tax erroneously paid, and either, but not both, of such adjustments is prevented by any law or rule of law (other than section 3761 of the Code), the amount of the assessment or of the credit or refund authorized shall reflect the adjustment which would be made in respect of the other tax (either the tax on self-employment income under section 480 of the Internal Revenue Code or the employee tax under section 1400 of the act) but for operation of such law or rule of law. For example, assume that during 1951 A paid $10 as tax on an amount erroneously treated as wages, when such amount was actually self-employment income, and that credit or refund of the $10 is not barred. A should have paid a self-employment tax of $15 on the amount. If the assessment of the correct tax, that is, $15, is barred by the statute of limitations, no credit or refund of the $10 shall be made without offsetting against such $10 the $15, assessment of which is barred. Thus, no credit or refund in respect of the $10 can be made.

(5) As another example, assume that during 1951 a taxpayer reports wages of $3,600 and net earnings from self-employment of $900. By reason of the limitations of section 481 (b) of the Code he shows no self-employment income. Assume further that by reason of a final decision in The Tax Court of the United States, further adjustments to his income tax liability are barred. The question of the amount of his wages, as defined in section 1426 (a) of the act, was not in issue in the Tax Court litigation, but it is subsequently determined (within the period of limitations applicable under the act) that $700 of the $3,600 reported as wages was not for employment as defined in section 1426 (b) of the act, and he is entitled to the allowance of a refund of the $10.50 tax paid on such remuneration under section 1400 of the act. The reduction of his wages from $3,600 to $2,900 would result in the determination of $700 self-employment income, the tax on which is $15.75 for the year. The overpayment of $10.50 would be offset under section 3812 of the Code by the barred deficiency of $15.75, thus eliminating the refund otherwise allowable. If the facts were changed so that the taxpayer erroneously paid tax on self-employment income of $700, having been taxed on only $2,900 as wages, and within the period of limitations applicable under the act, it is determined that his wages were $3,600, the tax of $10.50 under section 1400 of the act, otherwise collectible, would be eliminated by offsetting under section 3812 of the Code the barred overpayment of $15.75. The balance of the barred overpayment, $5.25, cannot be credited or refunded.

(6) Another illustration of the operation of section 3812 of the Code is the case of a taxpayer who is erroneously taxed on $2,500 as wages, the tax on which is $37.50, and who reports no self-employment income. After the statute of limitations has run on the refund of the tax under the act, it is determined that the amount treated as wages should have been reported as net earnings from self-employment. The taxpayer's self-employment income would then be $2,500 and the tax thereon would be $56.25. Assume that the period of limitations under chapter 1 of the Internal Revenue Code has not expired, and that a notice of deficiency may properly be issued. Under section 3812 of the Code, the amount of the deficiency of $56.25 must be reduced by the barred overpayment of $37.50.

(b) *Law applicable in determination of error.* The question of whether there was an erroneous treatment of self-employment income or of wages is determined under the provisions of law and regulations applicable with respect to the year or other taxable period as to which the error was made. The fact that the error was in pursuance of an interpretation, either judicial or administrative, accorded such provisions of law and regulations at the time of such action is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action was contrary to such provisions of the law and regulations as later interpreted, the error is within the meaning of section 3812 of the Code.

ACTS TO BE PERFORMED BY AGENTS

SECTION 1632 OF THE INTERNAL REVENUE CODE

ACTS TO BE PERFORMED BY AGENTS

In case a fiduciary, agent or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Commissioner, under regulations prescribed by him with the approval of the Secretary, is authorized to designate such fiduciary, agent or other person to perform such acts as are required of employers under this chapter [chapter 9 of the Internal Revenue Code] and as the Commissioner may specify. Except as may be otherwise prescribed by the Commissioner with the approval of the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent or other person so designated but, except as so provided, the employer for whom such fiduciary, agent or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers. (Sec. 1632, I. R. C., as added by sec. 2 (a), (d), Current Tax Payment Act of 1943, 57 Stat. 126, 139.)

§ 408.906 *Acts to be performed by agents.* If an employer pays wages to an employee or group of employees through a fiduciary, agent, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee or group of employees, the Commissioner may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of employers under the act and the regulations in this part. Application for authorization to perform such acts, signed by such fiduciary, agent, or other person, should be filed with the Commissioner of Internal Revenue, Washington, D. C. If the fiduciary, agent, or other person is authorized by the Commissioner to perform such acts as are required of employers under the act and regulations, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of an employer shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person acts shall remain subject to all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of employers.

INTEREST AND ADDITIONS TO TAX

SECTION 1420 (b) OF THE ACT

ADDITION TO TAX IN CASE OF DELINQUENCY

If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 1401 (c) and 1411) at the rate of 6 per centum per annum from the date the tax became due until paid.

SECTION 3655 OF THE INTERNAL REVENUE CODE

NOTICE AND DEMAND FOR TAX

(a) *Delivery.* Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment * * *.

* * * * *

§ 408.907 *Interest.* If the tax is not paid to the collector when due and is not adjusted under § 408.702 or § 408.703, interest accrues at the rate of 6 percent per annum.

§ 408.908 *Addition to tax for failure to pay an assessment after notice and demand.* (a) If tax, penalty, or interest is assessed and the entire amount thereof is not paid within 10 days after the date of issuance of notice and demand for payment thereof, based on such assessment, there accrues under section 3655 of the Internal Revenue Code (except as provided in paragraph (b) of this section) a penalty of 5 percent of the assessment remaining unpaid at the expiration of such period.

(b) If, within 10 days after the date of issuance of notice and demand, a claim for abatement of any amount of the assessment is filed with the collector, the 5 percent penalty does not attach with respect to such amount. If the claim is rejected in whole or in part and

the amount rejected is not paid, the collector shall issue notice and demand for such amount. If payment is not made within 10 days after the date the collector issues the notice and demand, the 5 percent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest.

SECTION 3612 (d) AND (e) OF THE INTERNAL REVENUE CODE

(d) *Additions to tax*—(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided*, That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

* * * * *

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SECTION 1631 OF THE INTERNAL REVENUE CODE

FAILURE OF EMPLOYER TO FILE RETURN

In case of a failure to make and file any return required under this chapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5. (Sec. 1631, I. R. C., as added by sec. 2 (a), Current Tax Payment Act of 1943, 57 Stat. 138, and as amended by sec. 209 (d), Social Security Act Amendments of 1950, 64 Stat. 547.)

§ 408.909 *Additions to tax for delinquent or false returns*—(a) *Delinquent returns*—(1) *Ad valorem addition.* (i) If a person fails to make and file a return required by the regulations in this part within the prescribed time, a certain percent of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to be due to reasonable cause and not to willful neglect. Two classes of delinquents are subject to this addition to the tax:

(*a*) Those who do not file returns and for whom returns are made by a collector, a deputy collector, or the Commissioner; and

(*b*) Those who file tardy returns and are unable to show reasonable cause for the delay.

The amount to be added to the tax is 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate, subject, however, to the minimum addition to the tax set forth in subparagraph (2) of this paragraph. In computing the period of delinquency all Sundays and holidays after the due date are counted.

(ii) A person who files a tardy return and wishes to avoid the addition to the tax for delinquency must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of a statement which should be attached to the return as a part thereof.

(2) *Minimum addition.* If a person fails to make and file a return required by the regulations in this part within the prescribed time, unless it is shown that the failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5. The addition to the tax or taxes shall be computed as provided in subparagraph (1) of this paragraph and if less than $5 shall be increased to $5.

(b) *False returns.* If a false or fraudulent return is willfully made, the addition to tax under section 3612 (d) (2) of the Internal Revenue Code is 50 percent of the total tax due for the entire period involved, including any tax previously paid.

PENALTIES

SECTION 2707 OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1430 OF THE ACT

PENALTIES

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax * * * or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(b) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter who willfully fails to pay such tax, make such returns, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SECTION 3616 OF THE INTERNAL REVENUE CODE

PENALTIES

Whenever any person—

(a) *False returns.* Delivers or discloses to the collector or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made; or,

(b) *Neglect to obey summons.* Being duly summoned to appear to testify, or to appear and produce books as required under section 3615, neglects to appear or to produce said books—he shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

* * * * *

SECTION 3793 (b) OF THE INTERNAL REVENUE CODE

FRAUDULENT RETURNS, AFFIDAVITS, AND CLAIMS

(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SECTION 286 OF TITLE 18 OF THE UNITED STATES CODE

CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SECTION 286 OF TITLE 18 OF THE UNITED STATES CODE

FALSE, FICTITIOUS OR FRAUDULENT CLAIMS

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE

STATEMENTS OR ENTRIES GENERALLY

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes

any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SECTION 1621 OF TITLE 18 OF THE UNITED STATES CODE

PERJURY GENERALLY

Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both.

SECTION 208 OF THE SOCIAL SECURITY ACT

PENALTIES

Whoever, for the purpose of causing an increase in any payment authorized to be made under this title [Title II of the Social Security Act], or for the purpose of causing any payment to be made where no payment is authorized under this title, shall make or cause to be made any false statement or representation (including any false statement or representation in connection with any matter arising under * * * subchapter A or E of chapter 9 of the Internal Revenue Code) as to the amount of any wages paid or received or the period during which earned or paid, or whoever makes or causes to be made any false statement of a material fact in any application for any payment under this title, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such an application, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both. (Sec. 208, Social Security Act, as amended by sec. 201, Social Security Act Amendments of 1939, 53 Stat. 1362; sec. 109 (c), Social Security Act Amendments of 1950, 64 Stat. 523.)

SECTION 1106 OF THE SOCIAL SECURITY ACT

DISCLOSURE OF INFORMATION IN POSSESSION OF AGENCY

(a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act * * * or subchapter A of chapter 9 of the Internal Revenue Code, or under regulations made under authority thereof, which has been transmitted to the Administrator by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Administrator or by any officer or employee of the Federal Security Agency in the course of discharging the duties of the Administrator under this Act, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Administrator or from any officer or employee of the Federal Security Agency, shall be made except as the Administrator may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, may be complied with if the agency, person, or organization making the request agrees to pay for the information requested in such amount, if any (not exceeding the cost of furnishing the information), as may be determined by the Administrator. Payments for information furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Administrator, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund) for the unit or units of the Federal Security Agency which prepared or furnished the information. (Sec. 1106, Social Security Act, as added by sec. 802, Social Security Act Amendments of 1939, 53 Stat. 1398, and as amended by sec. 403 (d), Social Security Act Amendments of 1950, 64 Stat. 559.)

SECTION 1107 OF THE SOCIAL SECURITY ACT

PENALTY FOR FRAUD

(a) Whoever, with the intent to defraud any person, shall make or cause to be made any false representation concerning the requirements of * * * subchapter A * * * or E of chapter 9 of the Internal Revenue Code, or of any rules or regulations issued thereunder, knowing such representations to be false, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(b) Whoever, with the intent to elicit information as to the date of birth, employment, wages, or benefits of any individual * * * falsely represents to any person that he is an employee or agent of the United States, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both. (Sec. 1107, Social Security Act, as added by sec. 802, Social Security Act Amendments of 1939, 53 Stat. 1398, and as amended by sec. 403 (e), Social Security Act Amendments of 1950, 64 Stat. 560.)

OTHER LAWS APPLICABLE

SECTION 1430 OF THE ACT

OTHER LAWS APPLICABLE

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter. (Sec. 1430, I. R. C., as amended by sec. 903, Social Security Act Amendments of 1939, 53 Stat. 1400.)

RULES AND REGULATIONS

SECTION 1429 OF THE ACT

RULES AND REGULATIONS

* * * The Commissioner, with the approval of the Secretary, shall make and publish rules and regulations for the enforcement of this subchapter.

SECTION 3791 OF THE INTERNAL REVENUE CODE

RULES AND REGULATIONS

(a) *Authorization.*—

(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title [Internal Revenue Code].

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 408.910 *Promulgation of regulations.* In pursuance of section 1429 of the act, section 3791 of the Internal Revenue Code, and other provisions of the internal revenue laws, the foregoing regulations are hereby prescribed. (See §§ 408.102 and 408.143, relating to the scope of the regulations in this part and the extent to which they supersede prior regulations.)

[F. R. Doc. 51-6794; Filed, June 11, 1951; 8:55 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 930]

[Docket No. AO 72 A15-RO-1]

HANDLING OF MILK IN TOLEDO, OHIO, MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENTS TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was conducted at Toledo, Ohio, on June 1, 1950, reopened on November 30, 1950, pursuant to notices thereof which were issued on May 5, 1950 (15 F. R. 2804), and November 17, 1950 (15 F. R. 7980).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on May 5, 1951, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on May 10, 1951 (16 F. R. 4343, F. R. Doc. 51-5437).

Ruling on exceptions. Within the period reserved for filing exceptions to the recommended decision, exceptions were submitted on behalf of handlers. These exceptions have been fully considered and to the extent to which the findings and conclusions of this decision are at variance with the exceptions, such exceptions are hereby overruled.

The material issues and the findings and conclusions of the recommended decision (16 F. R. 4343, F. R. Doc. 51-5437) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein.

Determination of representative period. The month of March, 1951, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of amendments to the order regulating the handling of milk in the Toledo, Ohio,

marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order, as hereby amended.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 7th day of June 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Toledo, Ohio, Marketing Area

Sec.

§ 930.0 *Findings and determinations.* The findings and determinations set forth in this subpart are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth in this subpart.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Toledo, Ohio, on June 1, 1950, reopened on November 30, 1950, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Toledo, Ohio, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Toledo, Ohio, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

DEFINITIONS

§ 930.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 1940 ed, 601 et seq.).

§ 930.2 *Secretary.* "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary.

§ 930.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture.

§ 930.4 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 930.5 *Toledo, Ohio, marketing area.* "Toledo, Ohio, marketing area," called the "marketing area" in this subpart means the territory within the corporate limits of the cities of Toledo, Ohio, and Monroe, Michigan, and the towns and villages of Ottawa Hills, Maumee, Sylvania, Harbor View and Trilby in Lucas County, Ohio, and the village of Rossford in Wood County, Ohio, and the territory within the boundaries of the townships of Monclova, Springfield, Adams, Sylvania, Washington, Jerusalem and Oregon in Lucas County, Ohio, and Perrysburg, Ross and Lake in Wood County, Ohio, and Whiteford, Bedford, Erie, La Salle, Monroe, and Frenchtown in Monroe County, Michigan.

§ 930.6 *Fluid milk plant.* "Fluid milk plant" means a plant or other facilities used in the preparation or processing of milk for sale or disposition in the marketing area as Class I milk all, or a portion, of which is so sold or disposed of on the premises or from such plant (or

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

facilities) to a wholesale or retail stop(s) other than a plant of a handler or nonhandler.

§ 930.7 *Producer.* "Producer" means any person who produces milk received (a) at a fluid milk plant, or (b) at any other plant by diversion from a fluid milk plant on the account of a handler or a cooperative association: *Provided,* That the person producing milk holds a dairy farm inspection permit issued by the appropriate health authority of the community for which the milk is produced, if such community requires such permit for milk for disposition as Class I milk therein.

§ 930.8 *Handler.* "Handler" means (a) any person who operates a fluid milk plant, or (b) any association of producers with respect to producer milk diverted by it from a fluid milk plant to any plant of a nonhandler for the account of such association.

§ 930.9 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but receives no milk from other producers.

§ 930.10 *Producer milk.* "Producer milk" means milk produced by one or more producers under the conditions set forth in § 930.7.

§ 930.11 *Other source milk.* "Other source milk" means all skim milk and butterfat in any form received from a source other than a producer or handler (who is not a producer-handler), except any nonfluid milk product so received which is disposed of in the same form.

§ 930.12 *Nonhandler.* "Nonhandler" means any person who is not a handler, but who operates a milk manufacturing or processing plant.

§ 930.13 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its product for its members; and (c) to have all of its activities under the control of its members.

MARKET ADMINISTRATOR

§ 930.20 *Designation.* The agency for the administration of this subpart shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by the secretary.

§ 930.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 930.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 930.73:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 930.74, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 930.30, or (2) payments pursuant to §§ 930.70, 930.73, 930.74, 930.75, and 930.77;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this subpart; and

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the minimum class prices and the butterfat differential for each class computed pursuant to § 930.50, and § 930.52 and

(2) On or before the 12th day after the end of such delivery period the uniform price computed pursuant to § 930.61 and the butterfat differential computed pursuant to § 930.72.

(j) Upon request, supply on or before the 10th day after the end of each month to each cooperative association with respect to each producer specified in § 930.70 (a) the amounts of milk received, the average butterfat tests thereof, the amounts of authorized deductions and such other information necessary to carry out the provisions and intent of § 930.70.

REPORTS, RECORDS, AND FACILITIES

§ 930.30 *Monthly reports of receipts and utilization.* On or before the 5th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator the following information with respect to all milk received from producers, all milk, skim milk, cream, and milk products received from other handlers, all other source milk received during the month at his fluid milk plant(s), and milk diverted pursuant to § 930.7 (b):

(a) The quantities of butterfat and skim milk contained in such receipts, and their sources;

(b) The utilization of such receipts; and

(c) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 930.31 *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator (except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request) on or before the 20th day after the end of each month his producer pay roll for the month, which shall show (a) the pounds of milk and the percentages of butterfat contained therein received from each producer; (b) the amounts and dates of payments to each producer or cooperative association; and (c) the nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this section.

§ 930.32 *Records and facilities.* Each handler shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of all of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify reports, or to ascertain the correct information with respect to (a) the receipts and utilization of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat and for other contents of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 930.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceed-

ing under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 930.40 *Basis of classification.* All (a) producer milk received by a handler, (b) skim milk and butterfat in any form received by a handler from other handlers, and (c) other source milk received by a handler at a fluid milk plant, shall be classified in the classes set forth in § 930.41.

§ 930.41 *Classes of utilization.* Subject to the conditions set forth in §§ 930.42, 930.43, 930.44, 930.45, 930.46 and 930.47, the classes of utilization shall be:

(a) Class I milk shall be all skim milk and butterfat disposed of in fluid form as (1) milk; skim milk or buttermilk, except for livestock feed; or flavored milk or flavored milk drink; and (2) all skim milk and butterfat not accounted for as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk and butterfat disposed of as sweet or sour cream; any cream product in fluid form which contains less than the minimum butterfat required for fluid cream; or eggnog.

(c) Class III milk shall be all skim milk and butterfat accounted for (1) as used to produce a product other than those specified in paragraphs (a) and (b) of this section; (2) as actual plant shrinkage of skim milk and butterfat received in producer milk, but not to exceed 2 percent of such receipts of skim milk and butterfat, respectively, and (3) as actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received: *Provided,* That if producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage allocated to producer milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

§ 930.42 *Interhandler and nonhandler transfers.* (a) Skim milk and butterfat disposed of by a handler to another handler in the form of milk or skim milk shall be Class I milk, and skim milk and butterfat so disposed of in the form of cream shall be Class II milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the month within which such transfer was made: *Provided,* That in no event shall the amount so reported be greater than the amount used in such class by the receiving handler.

(b) Skim milk and butterfat disposed of in the form of milk or skim milk by a handler to a nonhandler's plant located less than 100 miles from the City Hall at Toledo, Ohio, by the shortest highway distance as determined by the market administrator, shall be Class I milk, and skim milk and butterfat so disposed of in the form of cream shall be Class II milk, unless (1) utilization is mutually indicated in writing to the market administrator by both the handler and nonhandler on or before the 5th day after the end of the month within which such transfer was made, and (2) the nonhandler maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the verification of such mutually indicated utilization.

(c) Skim milk and butterfat disposed of in the form of milk or skim milk by a handler to a nonhandler's plant located 100 miles or more from the City Hall at Toledo, by the shortest highway distance as determined by the market administrator, shall be Class I milk, and skim milk and butterfat so disposed of in the form of cream shall be Class II milk.

§ 930.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 930.44 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and for obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 930.45 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to producer milk:

(a) Subtract from the total pounds of butterfat in Class III milk the total pounds of butterfat shrinkage pursuant to subparagraphs (2) and (3) of paragraph (c) of this section;

(b) Subtract from the pounds of butterfat remaining in each class the pounds of butterfat received from other handlers and used in such class;

(c) Determine the pounds of butterfat in other source milk to be prorated pursuant to paragraph (e) of this section as the smallest of the following amounts:

(1) The pounds of butterfat in other source milk received in the form of milk or skim milk,

(2) The difference by which the pounds of butterfat received in producer milk are less than 1.2 times the pounds of butterfat in the handler's Class I milk, not including that disposed of to other fluid milk plants, and

(3) The total pounds of butterfat in other source milk less the amount of the butterfat shrinkage on other source milk subtracted pursuant to paragraph (a) of this section;

(d) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk other than (1) butterfat shrinkage in other source milk subtracted pursuant to paragraph (a) of this section and (2) butterfat in other source milk determined pursuant to paragraph (c) of this section;

(e) Subtract pro rata from the pounds of butterfat remaining in each class, the pounds of butterfat in other source milk determined pursuant to paragraph (c) of this section; and

(f) Add to the pounds of butterfat remaining in Class III milk the pounds of butterfat shrinkage in producer milk subtracted pursuant to paragraph (a) of this section; or if the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series beginning with the lowest-priced utilization.

§ 930.46 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to producer milk in a manner similar to that prescribed for butterfat in § 930.45.

§ 930.47 *Determination of producer milk in each class.* Add the pounds of butterfat and pounds of skim milk allocated to producer milk in each class, respectively, as computed pursuant to §§ 930.45 and 930.46 and determine the percentage of butterfat in each class.

MINIMUM PRICES

§ 930.50 *Class prices.* Subject to the provisions of §§ 930.52 and 930.53, each handler shall pay not less than the following prices per hundredweight, on the basis of 3.5 percent butterfat content, for producer milk received.

(a) *Class I milk price.* (1) Except as provided in subparagraph (2) of this paragraph, add to the basic formula price the following amount for the delivery period indicated:

Delivery period:	*Amount*
May and June	$0.75
March, April, July, August	1.00
All others	1.20

(2) For the second delivery period following any period of 12 consecutive months in which the total receipts of milk from producers by all handlers exceed 135 percent of the total Class I utilization of all handlers, and continuing until the beginning of the second delivery period following any period of 12 consecutive months in which such milk receipts are less than 125 percent of such utilization, add to the basic formula price the following amount for the delivery period indicated:

Delivery period:	*Amount*
May and June	$0.75
March, April, July, August	.95
All others	1.05

(b) *Class II milk price.* The Class II milk price for each delivery period shall be the Class I milk price for such delivery period less 30 cents.

(c) *Class III milk price.* The Class III milk price shall be the average (computed to the nearest tenth of a cent) of

the basic (or field) prices per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following locations for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month by the companies indicated below:

Company and Location

Pet Milk Co., Wauseon, Ohio.
Pet Milk Co., Delta, Ohio.
Defiance Milk Products Co., Defiance, Ohio.
Pet Milk Co., Hudson, Mich.

§ 930.51 *Basic formula price.* The basic formula price per hundredweight (computed to the nearest tenth of a cent) to be used in determining the class prices pursuant to § 930.50 shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content computed pursuant to paragraph (c) of § 930.50, or to paragraphs (a), (b), and (c) of this section.

(a) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 5th day after the end of the month by the companies indicated below:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed as follows:

(1) Multiply by six the average daily wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture during the month;

(2) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the month on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by seven, and add 30 percent thereof, and then multiply by 3.5.

(c) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month subtract three cents, add 20 percent thereof, and then multiply by 3.5; and

(2) From the arithmetical average of the carlot prices per pound for nonfat dry milk solids (not including that specifically designated animal feed), spray and roller process, f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture during the month, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.965, except that if such agency does not publish such prices f. o. b. manufacturing plants, there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof delivered at Chicago, Illinois, as published weekly by such agency during the month; and in the latter event the figure "7.5" shall be substituted for "5.5" in the above formula.

§ 930.52 *Butterfat differentials to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 930.47, is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of one percent that such weighted average butterfat test is above or below, respectively, 3.5 percent, a butterfat differential (computed to the nearest tenth of a cent), calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply by 1.3 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month, and divide the result by 10;

(b) *Class II milk.* Multiply by 1.25 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month, and divide the result by 10; and

(c) *Class III milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month, and divide the result by 10.

§ 930.53 *Emergency price provisions.* Whenever the provisions of this subpart require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy, or other similar payment, being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided,* That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum price established by regulations of any Federal agency plus the amount of such subsidy or other similar payment: *Provided further,* That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

HANDLER'S OBLIGATION AND UNIFORM PRICE

§ 930.60 *Value of milk.* The value of producer milk of each handler for each month shall be a sum of money computed by the market administrator by multiplying by the respective class prices pursuant to § 930.50, the amounts in each class computed pursuant to § 930.47, and adding together such amounts: *Provided,* That if a handler, after the subtraction of other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which on the basis of his report for the month pursuant to § 930.30, has been credited to his producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to § 930.45 (f) and § 930.46 by the applicable class prices.

§ 930.61 *Uniform price.* For each delivery period the market administrator shall compute for each handler a "uniform price" per hundredweight, on the basis of 3.5 percent butterfat content, for producer milk received by such handler as follows:

(a) From the value of milk computed for such handler pursuant to § 930.60, deduct, if the weighted average butterfat test of all producer milk received by him is greater than 3.5 percent, or add, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the variance of such weighted average butterfat test from 3.5 percent by the butterfat differential computed pursuant to § 930.72 and multiplied by 10;

(b) Add or subtract, as the case may be, the amount necessary to correct errors in classification for previous delivery periods as disclosed by audit of the market administrator;

(c) Adjust the resulting amount by the sum of money used in adjusting the uniform price, pursuant to paragraph (e) of this section, for the previous month to the nearest cent;

(d) Divide the result by the total hundredweight of producer milk represented by the value computed pursuant to § 930.60; and

(e) Adjust the resulting figure to the nearest cent.

§ 930.62 *Notification.* On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class;

(b) The uniform price for such handler pursuant to § 930.61 and the butterfat differentials computed pursuant to § 930.72; and

(c) The totals of the amounts to be paid by such handler pursuant to §§ 930.73, 930.74, and 930.75.

PAYMENTS

§ 930.70 *Time and method of final payment.* (a) On or before the 13th day after the end of each month, each handler shall, upon request, pay to a cooperative association with respect to milk of producers for which it has received written authorization to collect payment a total amount not less than the sum of the individual amounts otherwise payable to such producers pursuant to paragraph (b) of this section.

(b) On or before the 15th day after the end of each month, each handler shall pay each producer (other than those specified in paragraph (a) of this section) for milk received from him during such month, at not less than the uniform price for such handler adjusted by the butterfat differential pursuant to § 930.72 less the amount of payment made pursuant to § 930.71.

§ 930.71 *Partial payments.* (a) On or before the last day of each month, each handler shall, upon request, pay to a cooperative association with respect to milk received during the first 15 days of the month from producers specified in paragraph (a) of this section, a total amount not less than the sum of the individual amounts for such producers, computed at not less than the uniform price for such handler for the preceding month.

(b) On or before the last day of each month each handler shall pay to each producer (other than those specified in paragraph (a) of this section) for milk received from him during the first fifteen (15) days of the month at not less than fifty cents (50 cents) under the uniform price for such handler for the preceding month: *Provided*, That in the event a producer discontinues shipping to the market during the month, such partial payments shall not be made and full payment for all milk received from such producer during the month shall be made pursuant to the provisions of § 930.70.

§ 930.72 *Producer butterfat differential.* In making payments pursuant to § 930.70 the uniform price for each handler shall be adjusted for each one-tenth of one percent of butterfat content in the milk of each producer above or below 3.5 percent, as the case may be, by a butterfat differential (computed to the nearest multiple of one-half cent) calculated as follows: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the month and divide the result by 10.

§ 930.73 *Expense of administration.* As his prorata share of expense incurred pursuant to § 930.22 (d), each handler shall pay the market administrator, on or before the 15th day after the end of each month, 2 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe with respect to receipts, during the month, of (a) milk from producers (including such handler's own production), and (b) other source milk received at a fluid milk plant and classified as Class I milk or Class II milk.

§ 930.74 *Deductions for marketing services.* Except as set forth in § 930.75, each handler, in making payments to producers pursuant to § 930.70, with respect to all milk received from each producer (except milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe; and on or before the 15th day after the end of such month, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of milk of such producers and to provide such producers with market information, such services to be performed by the market administrator, or by an agent engaged by and responsible to him.

§ 930.75 *Cooperative association.* In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in § 930.74, as determined by the market administrator, each handler shall make, in lieu of the deductions specified in § 930.74, such deductions from payments required pursuant to § 930.70 as may be authorized by such producers, and pay such deductions on or before the 15th day after the end of such month to the cooperative association rendering such services of which such producers are members.

§ 930.76 *Reports to cooperatives.* Upon request the market administrator is authorized to report to any cooperative association qualifying under § 930.75 for each month the amount of butterfat shortage or overage in member milk found in any handler's plant, as revealed by the records of the market administrator. For the purpose of this report, the butterfat shortage or overage on member milk shall be determined as the percentage of total butterfat shortage or overage which total receipts of butterfat in member milk is of the total receipts of butterfat in the plant.

§ 930.77 *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, or such handler from the market administrator pursant to §§ 930.73 or 930.74, or (b) any producer or cooperative association from such handler pursuant to § 930.70, the market administrator shall promptly notify such handler of any such amount due; and said payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

APPLICATION OF PROVISIONS

§ 930.80 *Milk subject to other Federal orders.* (a) Milk received at a plant of a handler other than from producers the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall be considered as other source milk.

(b) Milk distributed as described in § 930.6 directly from a plant at which the handling of such milk is subject to the pricing and payment provisions of any other Federal milk marketing agreement or order shall not be subject to any of the provisions of this subpart except §§ 930.30, 930.31, 930.32 and 930.33.

(c) The value of milk disposed of by a handler as Class I milk within the marketing area of any other Federal milk marketing agreement or order issued pursuant to the act, which milk is not subject to the pricing and payment provisions of such agreement or order, shall be computed pursuant to § 930.60 at the Class I price provided in such other agreement or order adjusted pursuant to any applicable location adjustments, if such Class I price is higher than the Class I price provided in this subpart.

§ 930.81 *Milk caused to be delivered by cooperative associations.* Milk referred to in this subpart as received from producers by a handler shall include milk of producers caused to be delivered directly from the farm to the fluid milk plant of such handler by a cooperative association which is authorized to collect payment for such milk.

§ 930.82 *Diverted milk.* (a) Producer milk diverted by an operator of a fluid milk plant from such plant to a nonhandler's plant shall be deemed to have been received by the fluid milk plant from which such milk was diverted.

(b) Producer milk diverted by a cooperative association from a fluid milk plant to a nonhandler's plant shall be deemed to have been received by such association.

§ 930.83 *Producer-handlers.* Sections 930.40, 930.50, 930.60, 930.70, 930.73, 930.74, and 930.77 shall not apply to the milk of a producer-handler.

MISCELLANEOUS PROVISIONS

§ 930.90 *Termination of obligations.* (a) The obligations of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c), terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this sub-

part, to make available to the market administrator or his representatives all books or records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a), notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

§ 930.91 *Effective time.* The provisions of this subpart, or of any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 930.92 *When suspended or terminated.* The Secretary shall, whenever he finds that this subpart, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision thereof.

§ 930.93 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 930.94 *Liquidation.* Upon the suspension of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 930.95 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 930.96 *Separability of provisions.* If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

Order of Secretary Directing That Referendum Be Conducted Among Producers Supplying Milk to Toledo, Ohio, Marketing Area; and Designation of an Agent To Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order regulating the handling of milk in the Toledo, Ohio, marketing area) who, during the month of March 1951 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

R. J. Quaintance is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 25th day from the date this referendum order is issued.

[F. R. Doc. 51-6792; Filed, June 11, 1951; 8:54 a. m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR, Part 383]

FEES AND PROCEDURE TO OBTAIN CERTIFICATIONS OF OR INFORMATION FROM RECORDS

ISSUANCE OF CERTIFICATIONS OF RECORDS; DECENTRALIZATION OF FUNCTIONS

MAY 28, 1951.

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003), notice is hereby given of the proposed issuance by the Commissioner of Immigration and Naturalization, with the approval of the Attorney General, of the following rules relating to the issuance of certifications of records which are in the custody of the Immigration and Naturalization Service. In accordance with subsection (b) of said section 4, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 1063, Temporary Federal Office Building X, Nineteenth and East Capitol Streets NE., Washington 25, D. C., written data, views and arguments relative to the substantive provisions of the proposed amendment. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the day of publication of this notice will be considered.

The following amendments to Part 383, *Fees and procedure to obtain certifications of or information from records*, of Chapter I, Title 8 of the Code of Federal Regulations, are hereby prescribed:

Section 383.1 is amended to read as follows:

§ 383.1 *Application for certification of records; form.* Except as provided in § 383.3 (a), application shall be made on Form N-585 to the Commissioner for certification of a naturalization record of any court, or of any part thereof, or of any certificate of naturalization or of citizenship, for use in complying with any statute, Federal or State, or in any judicial proceeding. The applicant shall fill out properly, sign, and forward the application to the commissioner of Immigration and Naturalization, Washington, D. C.

The second sentence of § 383.2, *Application for certification of records; contents,* is hereby amended to read as follows: "If it is desired for use in a judicial proceeding, the application shall set forth the title and character of the proceeding and the court in which it is pending."

Section 383.3 is amended to read as follows:

§ 383.3 *Certification of declaration of intention; application; form; procedure; action by field office.* (a) An applicant for a certification of a declaration of intention in lieu of one filed with a petition for naturalization shall fill out properly, sign, and submit Form N-585 to the immigration and naturalization office prescribed in § 60.30 (a) of this chapter. The application shall be accompanied by three photographs of the applicant as prescribed in Part 364 of this chapter. The application shall be examined in the field office for defects in execution and, if necessary, shall be returned to the applicant for correction. The field office shall forward a properly executed application for decision to the district director having jurisdiction over the alien's place of residence.

(b) If the application submitted pursuant to paragraph (a) of this section is approved, the certification of the declaration of intention in lieu of one filed with a petition for naturalization shall be issued by the district director, acting

for the Commissioner, and not by the clerk of court.

(c) If denial of the application for a certification of a declaration of intention in lieu of one filed with a petition for naturalization is recommended, the reasons therefor shall be given. The application and photographs, together with the findings and recommendation of the examining officer, shall then be forwarded to the district director.

(d) If the district director is in doubt as to whether such application shall be granted, the complete record in the case shall be forwarded to the Commissioner for decision.

(e) If the district director is not satisfied that the application should be granted, he shall deny the application. The applicant shall be notified in writing of the decision with the reasons therefor, and at the same time shall be advised that he has ten days from the date of notification of decision in which he may appeal to the Commissioner. If an appeal is taken, it shall be filed with the district director, who shall forward the complete record in the case to the Commissioner for decision.

(f) Upon acquiring jurisdiction over an application for a certification of a declaration of intention in lieu of one filed with a petition for naturalization, the Commissioner shall enter a final order granting or denying the application. Notice of the Commissioner's decision shall be sent to the district office of origin, and at the same time the file relating to the applicant shall be returned to the field office. If the application is granted by the Commissioner, the district director, acting for the Commissioner, shall issue the certification of the declaration of intention in lieu of one filed with a petition for naturalization. The district director shall advise the applicant in writing of the Commissioner's decision.

(Secs. 37, 327, 54 Stat. 675, 1150; 8 U. S. C. 458, 727)

ARGYLE R. MACKEY,
Commissioner of Immigration and Naturalization.

Approved: June 6, 1951.

J. HOWARD MCGRATH,
Attorney General.

[F. R. Doc. 51-6756; Filed, June 11, 1951; 8:55 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

[No. S-26]

AMERICAN PRESIDENT LINES, LTD.; PASSENGER VESSEL SUBSIDY

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held before a hearing examiner, at a time and place hereafter to be announced, under section 602 of the Merchant Marine Act, 1936, as amended, in connection with the passenger services of American President Lines, Ltd., on Trade Route No. 29, Service 1 (California ports/Far East), as described in the United States Maritime Commission's report of Essential Foreign Trade Routes of the American Merchant Marine, issued May 1949.

The purpose of the hearing is to receive evidence relevant to the following: (1) Whether, and to what extent, the passenger services of American President Lines, Ltd., on Trade Route No. 29, Service 1, have been subject to foreign-flag competition between January 1, 1947, and the present date, or any part of that period; (2) whether such competition, if any, was (a) direct foreign-flag competition, or (b) competition other than direct foreign-flag competition; and (3) whether an operating subsidy to American President Lines, Ltd., for its passenger services on Trade Route No. 29, Service 1, is necessary to meet competition of foreign-flag vessels.

The hearing will be conducted in accordance with the Board's rules of procedure (12 F. R. 6076), and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to participate in this proceeding should notify the Secretary of the Board to that effect on or before June 26, 1951, and should file petitions of intervention in accordance with § 201.81 of the Board's rules of procedure.

Dated: June 7, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 51-6757; Filed, June 11, 1951; 8:56 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 52747]

PRODUCTS OF FAEROE ISLANDS

MARKING OF COUNTRY OF ORIGIN

JUNE 6, 1951.

Acceptable markings to indicate the country of origin under the marking provisions of the Tariff Act of 1930, as amended, for articles manufactured or produced in the Faeroe Islands are as follows:

Faeroe Islands; Faeroe Islands (Denmark); or Denmark

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 51-6760; Filed, June 11, 1951; 8:57 a. m.]

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1951, 51st Supp.]

ALLIANCE MUTUAL CASUALTY CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

JUNE 6, 1951.

A Certificate of Authority has been issued by the Secretary of the Treasury to the above company under the act of Congress approved July 30, 1947, (6 U. S. C. secs. 6-13), as an acceptable surety on Federal bonds. An underwriting limitation of $60,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Section of Surety Bonds, Washington 25, D. C.

[SEAL] JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 51-6759; Filed, June 11, 1951; 8:56 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Supp. 412), and Part 522 issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166,

as amended September 25, 1950; 15 F. R. 5701; 6326).

A. C. M. Corp., Winder, Ga., effective 5-28-51 to 11-27-51; 32 learners for expansion purposes only (Army trousers and field jackets; men's and boys' dress pants).

The Badger Raincoat Co., 209-211 Franklin Street, Port Washington, Wis., effective 5-25-51 to 5-24-52; five learners for normal labor turnover (sport and utility outerwear jackets).

Brewster Shirt Manufacturing Corp., Ocala, Fla., effective 5-24-51 to 11-23-51; 15 learners for expansion purposes only (men's sport shirts).

Consumers Textile & Manufacturing Corp., Jacksonville, Ala., effective 5-25-51 to 11-24-51; 25 learners for expansion purposes (washable service apparel).

Elder Manufacturing Co., Dexter, Mo., effective 5-25-51 to 5-24-52; 10 percent for normal labor turnover (men's and boys' apparel).

Gateway Manufacturing Co., Masontown, Pa., effective 5-28-51 to 11-27-51; 70 learners for expansion purposes (men's sport shirts).

Goldbloom's Inc., 217 Coxe Avenue, Asheville, N. C., effective 5-25-51 to 5-24-52; 10 learners for normal labor turnover (women's cotton dresses).

Honea Path Shirt Co., Simpsonville, S. C., effective 5-28-51 to 5-27-52; for normal labor turnover, 10 percent or 10 learners, whichever is greater (men's sport shirts).

Maiden Form Brassiere Co., Inc., 2311 Adams Avenue, Huntington, W. Va., effective 5-25-51 to 11-24-51; 15 learners for expansion purposes only (brassieres).

Maiden Form Brassiere Co., Inc., Stanley Avenue and Second Street, Princeton, W. Va., effective 5-25-51 to 11-24-51; 10 learners for expansion purposes only (brassieres).

Mit's Garment Co., 1920 Sheridan Road, Zion, Ill., effective 5-28-51 to 5-27-52; eight learners for normal labor turnover (cotton dresses).

Normandy Dress Co., 700 South Madison Ave., Bay City, Mich., effective 5-28-51 to 11-27-51; 20 learners for expansion purposes only (ladies' cotton dresses).

Pearce Manufacturing Co., Howard Pa., effective 5-29-51 to 11-28-51; 10 learners for expansion purposes (woolen shirts and jackets).

Phillips-Lester Manufacturing Co., 2300 First Avenue, North, Birmingham, Ala., effective 5-25-51 to 5-24-52; 10 percent for normal labor turnover (trousers, overalls, jackets, dungarees).

Regina Manufacturing Co., 44 Carey Avenue, Wilkes-Barre, Pa., effective 5-29-51 to 11-28-51; 30 learners for expansion purposes only (corsets and allied garments).

S. W. S. Co., Cottonwood Road, West, Tex., effective 5-28-51 to 11-27-51; 12 learners for expansion purposes (trousers for United States Army).

Service Uniforms, Inc., 1627 Pennsylvania, Pittsburgh, Pa., effective 5-25-51 to 5-24-52; 10 percent for normal labor turnover (washable service garments).

Shirtman, Inc., Elloree, S. C., effective 5-25-51 to 11-24-51; 80 learners for expansion purposes only (men's sport shirts).

Smoky Mountain Fabrics, 306 Patton Avenue, Asheville, N. C., effective 5-28-51 to 10-31-51; 15 learners for expansion purposes only (men's and boys' shirts) (supplemental certificate).

Spruce Manufacturing Corp., Second and Spruce Streets, Sanbury, Pa., effective 5-28-51 to 5-27-52; 10 percent for normal labor turnover (ladies' underwear).

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950, 15 F. R. 6888).

Craftmore Glove Co., Lynchburg, Tenn., effective 5-25-51 to 5-24-52; one learner for normal labor turnover.

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised January 25, 1950; 15 F. R. 283).

Nu-Vogue Hosiery Mills, Inc., 252 West Harden Street, Graham, N. C., effective 5-31-51 to 5-30-52; five learners for normal labor turnover.

Independent Telephone Industry Learner Regulations (29 CFR 522.82 to 522.93, as amended January 25, 1950; 15 F. R. 398).

Caldwell Telephone Co., Caldwell, Kans., effective 5-24-51 to 5-23-52.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Davis Hand Woven Textile Mill, 17 Ward Avenue, Keyser, W. Va., effective 5-25-51 to 11-24-51; two learners for normal labor turnover, hand weaver, 300 hours; 60 cents per hour (hand-woven baby shawls).

Diamond Braiding Mills, Inc., Tarpon Springs, Fla., effective 5-28-51 to 11-27-51; 20 learners for normal labor turnover; shoe lace pairers, 360 hours; 60 cents per hour for first 200 hours and 65 cents per hour for remaining 160 hours (shoe laces and braids).

Empire Manufacturing Corp., Statesville, N. C., effective 5-28-51 to 11-27-51; 30 learners for expansion purposes, to be employed in the manufacture of tents only; sewing machine operators, 240 hours; 60 cents per hour (tents).

Essex Corp., Charlottesville, Va., effective 5-29-51 to 11-28-51; 10 percent for normal labor turnover; machine operators and assemblers; 480 hours; 60 cents per hour for first 320 hours and 65 cents per hour for remaining 160 hours (fountain pens, mechanical pencils, etc.).

France Neckwear Manufacturing Corp., 1217 South Thirteenth Street, Wilmington, N. C., effective 5-24-51 to 5-23-52; 5 percent for normal labor turnover; machine operating (except cutting), hand sewing, and pressing each 320 hours; 60 cents per hour (men's neckwear).

Hickey-Freeman Co., 109 East Bank Street, Albion, N. Y., effective 5-23-51 to 5-22-52; 7 percent for normal labor turnover; hand sewers, 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Hickey-Freeman Co., 11 Lehigh Avenue, Batavia, N. Y., effective 5-23-51 to 5-22-52; 7 percent for normal labor turnover; machine operators (except cutting), 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Hickey-Freeman Co., 43 Lake Street, LeRoy, N. Y., effective 5-23-51 to 5-22-52; 7 percent for normal labor turnover; hand sewers, 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Hickey-Freeman Co., 13 East Center Street, Medina, N. Y., effective 5-23-51 to 5-22-52; 7 percent for normal labor turnover; hand sewers, 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Hickey-Freeman Co., 106 Main Street, Mount Morris, N. Y., effective 5-23-51 to 5-22-52; 7 percent normal labor turnover; hand sewers, 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Hickey-Freeman Co., 1155 Clinton Avenue North, Rochester, N. Y., effective 5-23-51 to 5-22-52; 7 percent for normal labor turnover; hand sewers, 480 hours; 60 cents per hour for first 240 hours and 65 cents per hour for remaining 240 hours (men's clothing).

Loring Studios, 320 Ann Street, Hartford, Conn., effective 5-24-51 to 11-23-51; 10 percent for normal labor turnover; photographic colorists, 320 hours; 60 cents per hour (developing, printing and finishing of portrait photographs).

Joseph Ruzicka, 606 North Butaw Street, Baltimore, Md., effective 6-8-51 to 12-8-51; hand sewing, case sewing, sewing machine operations, and typesetting, each 320 hours; 60 cents per hour (bookbindery).

Taylor Bag Co., 125 East 8th Street, Coffeyville, Kans., effective 5-25-51 to 11-24-51; two learners for normal labor turnover; sewing machine operators, 160 hours; 60 cents per hour (used bag cleaning and repairing).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 1st day of June 1951.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 51-6729; Filed, June 11, 1951; 8:45 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1210, G-1236, G-1264]

ERIE GAS SERVICE CO., INC., ET AL.

ORDER FIXING DATE OF HEARING

JUNE 6, 1951.

In the matters of Eugene H. Cole (Erie Gas Service Company, Inc.), Docket No. G-1210; Lake Shore Pipe Line Company, Docket No. G-1236; Grand River Gas Transmission Company, Docket No. G-1264.

By order issued April 13, 1951, the Commission granted rehearing in these proceedings with respect to only the issues enumerated in finding (2) thereof, such rehearing to be held at a date and place to be fixed by further order of the Commission.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 15 and 19 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, the rehearing referred to in the Commission's order issued in these proceedings on April 13, 1951, be held on June 25, 1951, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the issues enumerated in finding (2) thereof.

Date of issuance: June 7, 1951.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-6749; Filed, June 11, 1951; 8:52 a. m.]

[Docket No. G-1451]

NATURAL GAS CO. OF WEST VIRGINIA AND MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF FINDINGS AND ORDER

JUNE 6, 1951.

Notice is hereby given that, on June 5, 1951, the Federal Power Commission issued its findings and order entered June 4, 1951, in the above-entitled matter, authorizing and approving abandonment of facilities by Natural Gas Company of West Virginia, and issuing a certificate of public convenience and necessity to the Manufacturers Light and Heat Company.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6755; Filed, June 11, 1951; 8:54 a. m.]

[Docket No. G-1534]

COLORADO-WYOMING GAS CO.

NOTICE OF FINDINGS AND ORDER

JUNE 7, 1951.

Notice is hereby given that, on June 6, 1951, the Federal Power Commission issued its order entered June 5, 1951, issuing a certificate of public convenience and necessity and permitting abandonment of facilities in the above-entitled matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6751; Filed, June 11, 1951; 8:53 a. m.]

[Docket No. IT-5656]

COMPANIA ELECTRICA MATAMOROS, S. A. AND CENTRAL POWER AND LIGHT CO.

NOTICE OF ORDER MODIFYING ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY TO MEXICO

JUNE 7, 1951.

Notice is hereby given that, on June 6, 1951, the Federal Power Commission issued its order entered June 5, 1951, modifying order issued June 2, 1950, published in the FEDERAL REGISTER June 9, 1950 (15 F. R. 3658), authorizing transmission of electric energy to Mexico, and releasing Presidential Permit in Docket No. E-6336. Compania Electrica Matamoros, S. A.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6750; Filed, June 11, 1951; 8:53 a. m.]

[Project No. 404]

CHARLES R. POLLOCK AND L. B. COOPER

NOTICE OF ORDER RESCINDING AUTHORIZATION OF ISSUANCE OF LICENSE

JUNE 6, 1951.

Notice is hereby given that, on June 5, 1951, the Federal Power Commission issued its order entered June 4, 1951, rescinding authorization of issuance of license (Major) and dismissing application for license in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6754; Filed, June 11, 1951; 8:54 a. m.]

[Project No. 1903]

CONCORD ELECTRIC CO.

NOTICE OF ORDER AMENDING LICENSE

JUNE 6, 1951.

Notice is hereby given that, on April 20, 1951, the Federal Power Commission issued its order entered April 17, 1951, amending license (Major) in the above-designated matter.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6753; Filed, June 11, 1951; 8:53 a. m.]

[Project No. 1984]

WISCONSIN RIVER POWER CO.

NOTICE OF ORDER REGARDING LICENSE

JUNE 6, 1951.

Notice is hereby given that, on December 15, 1950, the Federal Power Commission issued its order entered December 15, 1950, partially rescinding its order authorizing issuance of license, dated January 28, 1948, published in the FEDERAL REGISTER February 5, 1948 (13 F. R. 528-529), and issuing license (Major), in the above-designated matter, subsequently modified by order of March 27, 1951, issued March 29, 1951.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6752; Filed, June 11, 1951; 8:53 a. m.]

[Project No. 2079]

PLACER COUNTY, CALIFORNIA

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

JUNE 6, 1951.

Public notice is hereby given that the County of Placer, California, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for preliminary permit for proposed major Project No. 2079 to be located on Middle Fork American River, Rubicon River and tributaries, and South and North Forks Silver Creek, which join to Form Silver Creek, a tributary of South Fork American River, in El Dorado and Placer Counties, California, and affecting lands of the United States within Tahoe and Eldorado National Forests. The proposed project would consist of: (1) Four major reservoirs and numerous smaller reservoirs for the storage, diversion and regulation of waters of the above-named streams; (2) a system of tunnels connecting the reservoirs to each other or to powerhouses; (3) seven powerhouses with aggregate installed capacity of 346,700 kilowatts: two to be on Middle Fork American River; three on Rubicon River; one on Gerle Creek, a tributary of Rubicon River; and one at the confluence of the North and South Forks of Silver Creek; and (4) appurtenant facilities.

Any protest against the approval of this application or request for hearing thereon, with the reason for such protest or request and the name and address of the party or parties so protesting or requesting should be submitted on or before July 19, 1951, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6748; Filed, June 11, 1951; 8:52 a. m.]

[Project No. 2082]

CALIFORNIA OREGON POWER CO.

NOTICE OF APPLICATION FOR LICENSE (MAJOR)

JUNE 6, 1951.

Public notice is hereby given that The California Oregon Power Company of Medford, Oregon, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for license for proposed Project No. 2082 to be known as the Big Bend No. 2 Development to be located in the region of Klamath Falls and Keno, Oregon. The project works would consist of a concrete gravity-type diversion dam approximately 52 feet high and 310 feet long with fixed crest at elevation 3,628 feet (U. S. G. S. datum) in SW¼NE¼ of Section 12, Township 40 South, Range 6 East, Willemette Meridian; a temporary regulating dam located about one-quarter mile below Spencer Bridge to provide a reservoir with approximately 1,150 acre-feet of pondage at normal high-water elevation 3,793 feet (U. S. G. S. datum) for peaking purposes; a 16-foot diameter conduit about 4,440 feet long, partly pipe and partly tunnel; a surge chamber; a steel penstock 16 feet in dameter and approximately 600 feet long; a powerhouse approximately 1 mile downstream from the diversion dam with two remotely controlled 25,000-kilowatt generators each connected to a turbine with capacity of 37,000 horsepower; a substation on the powerhouse structure; a transmission line approximately one-quarter mile long from the powerhouse to applicant's transmission line No. 18; and appurtenant facilities.

Any protest against approval of this application or request for hearing thereon, with reasons for such protest or request, and address of the party or parties so protesting or requesting should be submitted on or before the 19th day of July 1951, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 51-6747; Filed, June 11, 1951; 8:50 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Delegation of Authority 7, Supplement 1]

DIRECTOR OF REGION 14

DELEGATION OF AUTHORITY TO APPROVE, DISAPPROVE, OR REVISE CEILING PRICES IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 5 AND 6 OF CPR 44

By virtue of the authority vested in me as Director of Price Stabilization pursuant to the Defense Production Act of 1950 (64 Stat. 812), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization General Order No. 2 (16 F. R. 738) this delegation of authority is hereby issued.

1. Authority is hereby delegated to the Director of the Regional Office of Price Stabilization for Region 14 to approve, disapprove, or revise ceiling prices applied for in accordance with Section 5 of CPR 44. The authority herein delegated may be redelegated to the Director of the Territorial Office of the Office of Price Stabilization in Puerto Rico.

2. Authority is hereby delegated to the Director of the Regional Office of Price Stabilization for Region 14 to revise ceiling prices in accordance with Section 6 of CPR 44. The authority herein delegated may be redelegated to the Director of the Territorial Office of the Office of Price Stabilization in Puerto Rico.

This delegation of authority shall take effect on June 12, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JUNE 11, 1951.

[F. R. Doc. 51-6873; Filed, June 11, 1951; 11:20 a. m.]

GENERAL SERVICES ADMINISTRATION

GENERAL DELEGATION OF AUTHORITY TO HEADS OF THE SERVICES, STAFF OFFICERS, AND REGIONAL DIRECTORS

DOMESTIC TUNGSTEN PROGRAM

1. Consonant with the provisions of section 3 (a) (1) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1002 (a) (1), and pursuant to authority vested in me as Administrator of General Services by the Federal Property and Administrative Services Act (63 Stat. 378; 41 U. S. C. 201), the General Delegation of Authority to Heads of the Services, Staff Officers, and Regional Directors (15 F. R. 7775) is hereby supplemented by adding paragraph 3d (5), providing as follows:

(5) *Domestic Tungsten Program.* The following authorities under the Defense Production Act of 1950 (Public Law 774, 81st Congress), Executive Order 10161, and the Defense Production Administration certificate, dated March 30, 1951:

(a) The authority to issue certificates of authorization to evidence participation in the Domestic Tungsten Program.

(b) The authority to accept or reject for the General Services Administration tungsten concentrates meeting the minimum specifications set forth in the Domestic Tungsten Program Regulation (16 F. R. 4373) and to make payment therefor in accordance with the terms of such regulation.

(c) The authority to arrange for the transportation of such tungsten concentrates to designated locations, or to arrange for temporary storage, including the right to contract and make payment for such storage, in accordance with instructions furnished by the Storage and Transportation Division, Emergency Procurement Service, General Services Administration.

2. This supplement shall be effective as of the date hereof.

Dated: June 5, 1951.

JESS LARSON,
Administrator.

[F. R. Doc. 51-6739; Filed, June 11, 1951; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26143]

SCRAP PAPER FROM WASHINGTON, D. C., AND ROSSLYN, VA., TO HIGH POINT, N. C.

APPLICATION FOR RELIEF

JUNE 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of the Atlantic Coast Line R. R. Co., the Baltimore and Ohio R. R. Co., High Point, Thomasville & Denton R. R. Co., Norfolk Southern Ry. Co., Richmond, Fredericksburg and Potomac R. R. Co., Washington and Old Dominion R. R., and Winston-Salem Southbound Ry. Co.

Commodities involved: Scrap or waste paper, in carloads.

From: Washington, D. C., and Rosslyn, Va.

To: High Point, N. C.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's ICC No. 929, Supp. 187.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-6740; Filed, June 11, 1951; 8:48 a. m.]

[4th Sec. Application 26144]

PULPWOOD FROM POINTS IN FLORIDA TO PANAMA CITY, FLA.

APPLICATION FOR RELIEF

JUNE 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The Atlantic Coast Line Railroad Company for itself and on behalf of the Atlanta & Saint Andrews Bay Railroad Company.

Commodities involved: Pulpwood, carloads.

From: Points in Florida.

To: Panama City, Fla.

Grounds for relief: Circuitous routes and to meet intrastate rates.

Schedules filed containing proposed rates: A. C. L. R. R. Co., tariff ICC No. E-3281, supp. 16.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-6741; Filed, June 11, 1951; 8:48 a. m.]

[4th Sec. Application 26145]

MAGAZINES FROM KOKOMO, IND., TO PHILADELPHIA, PA.

APPLICATION FOR RELIEF

JUNE 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. C. Schuldt, Agent, for carriers parties to his tariff ICC No. 3758, pursuant to fourth section order No. 9300.

Commodities involved: Magazines or periodicals, and sections thereof, and newspaper supplements, carloads.

From: Kokomo, Ind.

To: Philadelphia, Pa.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-6742; Filed, June 11, 1951; 8:49 a. m.]

[4th Sec. Application 26146]

FOREIGN WOODS FROM TARBORO AND WEST TARBORO, N. C., TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

JUNE 7, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to agent C. A. Spaninger's tariffs ICC Nos. 714 and 1214.

Commodities involved: Lumber, logs or flitches of mahogany and philippine woods, built-up woods and veneer, carloads.

From: Tarboro and West Tarboro, N. C.

To: Official territory.

Grounds for relief: Circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, ICC 1214, supp. 14. C. A. Spaninger, Agent, ICC 714, supp. 150.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-6743; Filed, June 11, 1951; 8:49 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. D-14 (E)]

ALBERT GODDE BEDIN, INC.

DISMISSAL OF APPLICATION

JUNE 7, 1951.

The United States Tariff Commission today announces dismissal of the application for an investigation of imports of stencil silk, dyed or colored, under the escape clause provision of the General Agreement on Tariffs and Trade. The application was filed by Albert Godde Bedin, Inc., of New York. This action by the Tariff Commission was taken in view of the increase in duty on stencil silk, dyed or colored, effective July 6, 1951, from 25 to 55 or 60 percent ad valorem, depending upon width, pursuant to the President's proclamation of June 2, 1951, giving effect to the tariff negotiations at Torquay.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 51-6764; Filed, June 11, 1951; 8:58 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2598]

NEW ENGLAND GAS AND ELECTRIC ASSN. AND ALGONQUIN GAS TRANSMISSION CO.

SUPPLEMENTAL ORDER GRANTING EXTENSION OF TIME TO CONSUMMATE TRANSACTIONS

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 5th day of June A. D. 1951.

New England Gas and Electric Association ("Negea"), a registered holding company, and one of its subsidiaries, Algonquin Gas Transmission Company ("Algonquin"), having filed a joint application-declaration and an amendment thereto pursuant to sections 6 (b), 7, 9 (a), 10 and 12 of the Public Utility Holding Company Act of 1935 (the "act") and Rule U-43 promulgated thereunder with respect to the following proposed transactions:

Algonquin proposes to issue and sell not more than 77,500 additional shares of its $100 par value common stock by means of an offering to its stockholders, pursuant to preemptive rights, at a price of $100 per share, and under an arrangement which would permit Algonquin to receive the consideration from its accepting stockholders in the form of temporary, non-interest bearing advances on open account, to be subsequently converted into common stock.

Negea proposes to acquire such number of shares of Algonquin's common stock as will increase the investment of Negea in such stock to an amount not exceeding $3,000,000; and

The Commission by its order dated April 13, 1951, having granted and permitted to become effective the aforesaid application-declaration, subject to the terms and conditions prescribed in Rule U-24; and

The applicants-declarants having notified the Commission that the aforementioned transactions have been partially consummated by the issuance and sale by Algonquin of 53,593.25 additional shares of its common stock, including 19,406.135 shares purchased by Negea, and having requested that the Commission extend the period within which the transactions may be completely consummated to December 12, 1951; and

The Commission deeming it appropriate to grant such request:

It is ordered, That the period within which the aforesaid transactions may be completely consummated be, and the same hereby is, extended to December 12, 1951.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-6732; Filed, June 11, 1951; 8:45 a. m.]

[File No. 70-2640]

REPUBLIC LIGHT, HEAT AND POWER CO., INC.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 5th day of June A. D. 1951.

Notice is hereby given that an application has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), by Republic Light, Heat and Power Company, Inc. ("Republic"), a public utility subsidiary of Cities Service Company, a registered holding company. Applicant has designated section 6 (b) of the act and Rule U-50 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may not later than June 18, 1951, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to the Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 18, 1951, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Republic has made a loan agreement dated April 30, 1951 (hereinafter called the "Loan Agreement"), with Manufacturers and Traders Trust Company (hereinafter called "Trust Company"), pursuant to which the Trust Company has agreed to lend to Republic such sum or sums of money as Republic may from time to time request of it on or before October 1, 1954, up to, but not exceeding, the total amount of $1,500,000. The amounts borrowed under the Loan Agreement from time to time are to be evidenced by promissory notes of Republic. All Notes shall be dated as of the date of the borrowing they respectively evidence and shall mature on October 1, 1954. Each Note issued during the period from April 30, 1951 through October 31, 1952, shall bear interest at the rate of the greater of 3 percent per annum or 1¼ percent above the discount rate of the Federal Reserve Bank of New York in effect at the date thereof to Member Banks for the discount of eligible commercial paper. Each Note issued during the period from November 1, 1952 to September 30, 1954, shall bear interest at the rate of the greater of 3 percent per annum or 1 percent above the discount rate of the Federal Reserve Bank of New York in effect at the date thereof to Member Banks for the discount of eligible commercial paper. However, in no event shall any Note bear interest at a rate greater than 3½ percent per annum. Interest on all Notes shall be payable quarterly on the first day of January, April, July and October in each year.

The Notes are to be subject to prepayment by Republic, in whole or in part, at any time or from time to time. No premium is to be payable upon such prepayment except in the event that the funds used for any such prepayment are borrowed by Republic from any bank other than the Trust Company, in which event a premium will be payable equivalent to ¼ of 1 percent per annum upon the amount of such prepayment from the date thereof to October 1, 1954: *Provided, however,* That no premium will be payable in any event in the case of any prepayment made within twelve months of October 1, 1954.

As consideration for the Trust Company's commitment to make loans under the Loan Agreement, Republic will pay to the Trust Company on July 1, 1951, for the two months' period ending on that date, and quarterly thereafter for each preceding quarter-annual period, a commitment fee computed at the rate of ¼ percent per annum on the balance of funds available to it under said Loan Agreement from time to time unused during such period. Republic may cancel any unused credit available to it by giving three days written notice of such cancellation to the Trust Company, whereupon Republic's obligation to pay the commitment fee, except such fee as shall have accrued to the date of such cancellation, shall cease.

It is proposed to apply the proceeds of such borrowings to the payment of construction expenditures. Republic states that the issue and sale of the notes are solely for the purpose of financing the business of the company and are to be expressly authorized by the Public Service Commission of the State of New York, the State Commission of the State in which Republic is organized and doing business. It is also stated that the proposed issuance and sale of notes is exempt from the provisions of Rule U-50 because of the provisions of paragraph (a) (2) thereof.

It is requested that the Commission enter an order, to become effective upon its issuance, as soon as practical following authorization of the transactions by the Public Service Commission of the State of New York.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-6731; Filed, June 11, 1951; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 17900]

LABOUCHERE & CO. N. V.

In re: Stock registered in the name of Labouchere & Co. N. V., Amsterdam, The Netherlands, and owned by persons whose names are unknown.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Labouchere & Co. N. V., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country", as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Assistant Attorney General, Director, Office of Alien Property.*

EXHIBIT A

1. Pittsburgh Consolidation Coal Co. $1.00 par value common stock evidenced by the certificate whose number is set forth below for the number of shares indicated:

2 shares. P 0941.

2. Pittsburgh Coal Co. $100 par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. NY 029756, NY 029835, NY 029836, NY 029881.

[F. R. Doc. 51-6719; Filed, June 8, 1951; 8:52 a. m.]

[Vesting Order 17899]

SWISS BANK CORP.

In re: Stock registered in the name of Swiss Bank Corporation, Zurich, Switzerland, and owned by persons whose names are unknown. F-63-2748 Zurich.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock de-

scribed in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Swiss Bank Corporation, together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

30 shares of General Motors Corporation $10.00 par value common capital stock evidenced by certificates Nos. E-322344, E-322346, and E-322349 for 10 shares each.

[F. R. Doc. 51-6718; Filed, June 8, 1951; 8:51 a. m.]

[Vesting Order 17901]

LABOUCHERE & CO. N. V.

In re: Stock registered in the name of Labouchere & Co., N. V., Amsterdam, The Netherlands, and owned by persons whose names are unknown.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Labouchere & Co., N. V., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

International Mercantile Marine Company no par value capital stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 6934, 6943, 7523, 7542, 7724, 7754, 7758, 7827, 8015, 8016, 8020, 8689, 8952, 9221, 9222, 9230, 9235, 9241, 9247, 9291, 9295, 9338, 9363, 9512, 9439, 10381, 10392, 11104, 11264 11310, 11409, 11478, 11496, 12065, 12286, 12302, 12321, 12412, 12463, 12617, 13100, 13105.

[F. R. Doc. 51-6765; Filed, June 11, 1951; 8:59 a. m.]

[Vesting Order 17907]

H. OYENS & ZONEN, N. V.

In re: Stock registered in the name of H. Oyens & Zonen, N. V., Amsterdam, The Netherlands, and owned by persons whose names are unknown. F-49-1165.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of H. Oyens & Zonen, N. V., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partner-

ships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

International Mercantile Marine Company no par value capital stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 131, 4130, 4183, 4244, 4632, 6703, 7181, 12739.

[F. R. Doc. 51-6766; Filed, June 11, 1951; 8:59 a. m.]

[Vesting Order 17911]

LOUIS KORIJN & CO.

In re: Stock registered in the name of Louis Korijn & Co., Amsterdam, The Netherlands, and owned by persons whose names are unknown. D-49-570.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Louis Korijn & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

1. Southern Railway Company, No Par Value Common Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. 5998, 6297, 6143, 6691, 6834, 7681, 7696, 7734/5, 7789, 99489, 99726, 100206/7, 100046, 100061, 100339, 100502, 8017, 8021, 101180, 101192, 101195, 101819, 102279, 102743, 106920.

2. Southern Railway Company, Preferred Stock, evidenced by Certificate No. 26086 for ten shares.

[F. R. Doc. 51-6767; Filed, June 11, 1951; 9:00 a. m.]

[Vesting Order 17912]

LOUIS KORIJN & CO.

In re: Stock registered in the name of Louis Korijn & Co., Amsterdam, The Netherlands, and owned by persons whose names are unknown. D-49-570.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Louis Korijn & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

1. The Kansas City Southern Railway Company, No Par Value Common Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. B-49723, B-50576, B-51844, B-52603, B-53108, B-53113, B-53724, B-54093, B-54233, B-54327.

2. The Kansas City Southern Railway Company, $100 Par Value Preferred Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. B-36146, B-36154, B-38094, B-38259, B-39558, B-39787, B-40667, B-40715, B-40750, B-40883, B-42064.

[F. R. Doc. 51-6768; Filed, June 11, 1951; 9:01 a. m.]

[Vesting Order 17913]

LOUIS KORIJN & CO.

In re: Stock registered in the name of Louis Korijn & Co., Amsterdam, The Netherlands, and owned by persons whose names are unknown. D-49-570.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Louis Korijn & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

International Mercantile Marine Company, No Par Value Capital Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. 2552, 2558, 2950, 2996, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3865, 4127, 4162, 4340, 4348, 4534, 4538, 4712, 5623, 5671, 5847, 5994, 6033, 6566, 6573, 6590, 6611, 6880, 6886, 7067, 7073, 8126, 8528, 10030, 10060, 10061, 10120, 10142, 10157, 10186, 10189, 10347, 10577, 10625, 10630, 10631, 10634, 10656, 10664, 10717, 10724, 10744, 10745, 10751, 10753, 10781, 10852, 10923, 10924, 10934, 10969, 10972, 11710, 11723, 11759, 11943, 11968, 11997, 11999, 12072, 12073, 12074, 12178, 13466, 13467, 13468, 13649, 14172, 14173, 10833, 14174.

[F. R. Doc. 51-6769; Filed, June 11, 1951; 9:01 a. m.]

[Vesting Order 17914]

LOUIS KORIJN & CO.

In re: Stock registered in the name of Louis Korijn & Co., Amsterdam, the Netherlands, and owned by persons whose names are unknown. D-49-570.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Louis Korijn & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Pittsburgh Coal Company, $100.00 Par Value Common Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. NY 026189/91, 026195, 026309, 026424/5, 026836, 026838, 026858/62, 026865, 026941/2, 027022, 027124, 027252, 027255, 027302, 027479, 027481, 027496, 027609, 027659, 027764, 027774/5, 027967/8, 027974, 027999, 028117, 028217, 028260, 028319, 028333, 028365, 028374, 028419, 028487/8, 028504, 028542, 028558, 028577, 028580, 029272, 029291/2, 029305/6, 029404, 029426, 029725, 029733, 029736, 029822, 029860, 029908/9, 029932, 029934, 030222, 030252, 030265, 030270, 030336/7, 030345, 030421, 030888, 031011, 031013, 031015, 031018/19, 031033, 031051, 031053/4, 031101, 031103/6, 031107, 031124.

[F. R. Doc. 51-6770; Filed, June 11, 1951; 9:01 a. m.]

[Vesting Order 17915]

LOUIS KORIJN & CO.

In re: Stock registered in the name of Louis Korijn & Co., Amsterdam, the Netherlands, and o ned by persons whose names are unknown. D-49-570.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788, and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follow: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Louis Korijn & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" by reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 18, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

The United States Leather Company, Common Stock, evidenced by the certificates, whose numbers are set forth below for the number of shares indicated:

10-share certificates. 1284, 2427, 2437, 2438, 3617, 3618, 3619, 3620, 3621, 3727, 3769, 3803, 3804, 3805, 6617, 12185, 12189, 6597, 12190, 12191, 12192, 12193, 12194, 12195, 12203, 12212, 12101, 12102, 12103, 12104, 12105, 12106, 12107, 12108, 12109, 13302, 13303, 13310, 13853, 13859, 15531, 15532, 15664. 15672, 15673, 15678, 1955, 1956, 1969, 1975, 2377, 2556, 2562, 4495, 4501, 4833, 4834, 4835, 5260, 5411, 5419, 5877, 5878, 5894, 6038, 6068, 6078, 6079, 6107, 6110, 6163, 6185, 6186, 6187, 6188, 6189, 6190, 6191, 6192, 6197, 6198, 6199, 6200, 6201, 6202, 6227, 6228, 7368, 7369, 7370, 7371, 7387, 7388, 7812, 7814, 7837, 7838, 7840, 7870, 7914, 7924, 17910, 17947, 17977, 17995, 18008, 18012, 18013, 18050, 18473, 18481, 18506, 18603, 18704, 18822, 18923, 18956, 19016, 19647, 20448, 20842, 20843, 20844, 20845, 20846, 20852, 22093, 22094, 7927, 9362, 9400, 9416, 9431, 9435, 9436, 9438, 9463, 9470, 9471, 9505, 9576, 9631, 9632, 9633, 9644, 9659, 9667, 9668, 9669, 9670, 9674, 9682, 9980, 9981, 9982, 9985, 9986, 10007, 10008, 10000, 10011, 10014, 10020, 10021, 10022, 10023, 10085, 10100, 10135, 10172, 10176, 10177, 10200, 10201, 10202, 10222, 10279, 10308, 10350, 12324, 12862, 14435, 14481, 14553, 14563, 14573, 14574, 14575, 14576, 14577, 14599, 14644, 14647, 14666, 14672, 14684, 14695, 14709, 14713, 14714, 14715, 14716, 14717, 14718, 15867, 15889, 15897, 15904, 15912, 16812, 16910, 16918, 16919, 16920, 16921, 16922, 17590, 17811, 17817, 17851, 17872, 17876, 17887, 17890, 17893, 17894, 17900, 17902, 17910, 17939.

[F. R. Doc. 51-6771; Filed, June 11, 1951; 9:02 a. m.]

[Vesting Order 17920]

ERNEST F. GROSS

In re: Estate of Ernest F. Gross, deceased. File No. D-28-9120; E. T. sec. 11754.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm Loether whose last known address is Germany is a resident of Germany and a national of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs-at-large, next-of-kin, legatees and distributees, names unknown, of Margarete Gross Loether who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Ernest F. Gross, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Marie G. Dudley, as executrix, acting under the judicial supervision of the Surrogate's Court, New York County, New York;

and it is hereby determined:

5. That to the extent that the person named in subparagraph 1 hereof and the domiciliary personal representatives, heirs-at-law, next-of-kin, legatees and distributees, names unknown, of Margaret Gross Loether are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States,

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6772; Filed, June 11, 1951; 9:03 a. m.]

[Vesting Order 17931]

HARRY KIMURA

In re: Stock owned by the personal representatives, heirs, next of kin, legatees and distributees of Harry Kimura, also known as Kamegusu Harry Kimura, deceased. D-39-19316.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Exec-

utive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Harry Kimura, also known as Kamegusu Harry Kimura, deceased, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan);

2. That the property described as follows: Thirty-six (36) shares of $100.00 par value preferred capital stock of International Harvester Company, a corporation organized under the laws of the State of New Jersey, evidenced by certificates numbered CF-35042, CF-35043, CF-35044, CF-35045, CF-35046, and CF-35047, for 5 shares each and certificate numbered CF-35048 for 6 shares, registered in the name of Harry Kimura, and presently in the custody of International Harvester Company, 180 North Michigan Avenue, Chicago 1, Illinois, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the personal representatives, heirs, next of kin, legatees and distributees of Harry Kimura, also known as Kamegusu Harry Kimura, deceased, the aforesaid nationals of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the persons referred to in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6773; Filed, June 11, 1951; 9:03 a. m.]

[Vesting Order 17932]

SHIGEYOSHI MEGATA

In re: Stock owned by Shigeyoshi Megata. D-39-16732.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Shigeyoshi Megata, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: One (1) share of stock of Scarsdale Leasing Corp., a corporation organized under the laws of the State of New York, evidenced by a certificate numbered 546, registered in the name of Shigeyoshi Megata, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6774; Filed, June 11, 1951; 9:04 a. m.]

[Vesting Order 17935]

JOHANN SCHMIDT

In re: Bonds owned by Johann Schmidt, also known as John Schmidt. D-28-12633-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Schmidt, also known as John Schmidt, whose last known address is House No. 11, Kunreuth by Forchheim, Bavaria, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: Three (3) United Savings Bonds, Series E, in the aggregate face value of $150.00 bearing the numbers Q457732399E of $25.00 face value issued July 1944, Q79670563E of $25.00 face value issued October 1942 and C18818254E of $100.00 face value issued October 1942, registered in the name of George Schmidt, payable on death to John Schmidt, said bonds presently in the custody of the Citizens National Bank, Park Rapids, Minnesota, and any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Johann Schmidt, also known as John Schmidt, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6775; Filed, June 11, 1951; 9:04 a. m.]

[Vesting Order 17937]

UNION INVESTMENT CORP., INC.

In re: Securities owned by Union Investment Corporation, Inc. F-28-31199.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dr. Georg Barth, whose last known address is Samstagstrasse 2, Lauf bei Nuernberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That R. C. Weigmann Nachlass, whose last known address is Weigmannstrasse 27, Lauf bei Nuernberg, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

3. That Union Investment Corporation, Inc., Panama, Republic of Panama, is a corporation, partnership, association or other business organization, organized under the laws of Panama,

Republic of Panama, whose principal place of business is located in the city of Panama, Republic of Panama, and is, or since the effective date of Executive Order 8389, as amended, has been controlled by, or a substantial part of the stock of which is, or has been owned or controlled by, directly or indirectly, the aforesaid Dr. Georg Barth and R. C. Weigmann Nachlass, and is a national of a designated enemy country (Germany);

4. That the property described as follows:

a. Sixty-three (63) shares of $5.00 par value capital stock of Cerro de Pasco Copper Corporation, evidenced by certificate numbered 241844 for 60 shares and certificate numbered 249627 for 3 shares, said certificates registered in the name of Hurley & Co., and presently in the custody of The National City Bank of New York in a safekeeping account, Account B 33874 entitled, Mrs. Ingeburg Passaglia-Barth, together with all declared and unpaid dividends thereon,

b. One hundred fifty (150) shares of $15.00 par value common stock of International Packers Limited, evidenced by certificate numbered 15077 for 100 shares and certificate numbered 12636 for 50 shares, said certificates registered in the name of Hurley & Co. and presently in the custody of The National City Bank of New York in a safekeeping account, Account B 33874 entitled, Mrs. Ingeburg Passaglia-Barth, together with all declared and unpaid dividends thereon, and

c. Sixty (60) shares of no par value common stock of South Porto Rico Sugar Co., evidenced by certificate numbered 97852 registered in the name of Hurley & Co., presently in the custody of The National City Bank of New York in a safekeeping account, Account B 33874 entitled, Mrs. Ingeburg Passaglia-Barth, together with all declared and unpaid dividends thereon.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Union Investment Corporation, Inc., Panama, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

5. That Union Investment Corporation, Inc., Panama, is controlled by, or acting for or on behalf of a designated enemy country (Germany) or persons within such country and is a national of a designated enemy country (Germany);

6. That to the extent that the persons named in subparagraphs 1, 2 and 3 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6776; Filed, June 11, 1951; 9:05 a. m.]

[Vesting Order 17947]

INCASSO BANK, N. V.

In re: Stock registered in the name of Incasso Bank, N. V., Amsterdam, Holland, and owned by persons whose names are unknown. F-49-792.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Incasso Bank, N. V., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

1. International Mercantile Marine Company no par value capital stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

2-share certificates. 936, 970, 978, 990, 1156, 1157.

10-share certificates. 339, 345, 3182, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3363, 9821, 9844, 12526.

2. Southern Railway Company no par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 6989, 7000, 7009, 7022, 7037, 7221, 7664, 7871, 99928, 100145, 100613, 102387, 103300, 103320, 103321, 103328.

3. The Kroger Company no par value common stock evidenced by certificate number NC/0635 for 20 shares.

4. Pittsburgh Consolidation Coal Company $1.00 par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. NY 04163, NY 04164, NY 04165, NY 04166, NY 04167, NY 04555, P 01103.

5-share certificate. NY 04169.

2-share certificate. NY 05935.

5. Pittsbugh Coal Company $100.00 par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. NY 03016, NY 03017, NY 03018.

6. The Kansas City Southern Railway Company no par value common stock evidenced by certificate number B-48278 for 10 shares.

7. The Kansas City Southern Railway Company $100.00 par value preferred stock evidenced by certificate number B-41491 for 10 shares.

8. The United States Leather Company common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 4011, 4076, 4077, 4113, 4120, 4161, 4162, 5111, 5572, 6635, 7158, 7159, 7160, 7205, 7206, 9842, 9843, 12114, 12171, 12318, 13006, 13007, 13008, 13009, 13047, 13073, 13076, 13092, 13114, 13115, 13160, 13683, 13691, 13695, 16978, 16979.

[F. R. Doc. 51-6777; Filed, June 11, 1951; 9:05 a. m.]

[Vesting Order 17950]

VERMEER & CO.

In re: Stock registered in the name of Vermeer & Co., Amsterdam, Holland, and owned by persons whose names are unknown. F–49–1359.

Under the authority of the Trading With the Enemy Act, as amended, Executive Orders 9193, as amended, 9788 and 9989, and pursuant to law, after investigation, it is hereby found:

1. That the property described as follows: Those certain shares of stock described in Exhibit A, set forth below and by reference made a part hereof, registered in the name of Vermeer & Co., together with all declared and unpaid dividends thereon, excepting from the foregoing, however, those shares of stock described in Exhibit A, together with all declared and unpaid dividends thereon, concerning which, on or prior to the effective date of this vesting order, the issuing corporation or its transfer agent in the United States has received a license or a copy of a license removing such property from the restrictions of Executive Order 8389, as amended, or has been advised in writing by a banking institution in the United States of the removal of such restrictions and of the authorization therefor;

is property within the United States;

2. That the property described in subparagraph 1 hereof is owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or is evidence of ownership or control by persons, names unknown, who, if individuals, there is reasonable cause to believe are residents of a designated enemy country and which, if partnerships, associations, corporations, or other organizations, there is reasonable cause to believe are organized under the laws of a designated enemy country or on or since the effective date of Executive Order 8389, as amended, have had their principal places of business in a designated enemy country;

3. That the persons referred to in subparagraph 2 hereof are nationals of a designated enemy country;

and it is hereby determined:

4. That to the extent that the persons referred to in subparagraph 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended, and the term "designated enemy country" has reference to Germany or Japan. The term "banking institution" as used herein shall have the meaning prescribed in section 5F of Executive Order 8389, as amended.

Executed at Washington, D. C., on May 24, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

I. International Mercantile Marine no par value capital stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 7367, 7894, 7918, 9745, 9746, 9762.

II. The United States Leather Company common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 1739, 2099, 2100, 2282, 2600, 2628, 2629, 2636, 2647, 2648, 2649, 2650, 2651, 2661, 2669, 3514, 3530, 3557, 4403, 4404, 4405, 4782, 4799, 4807, 4929, 5528, 5530, 5710, 5747, 5750, 5764, 5765, 6676, 6677, 7410, 7980, 7982, 8014, 8519, 8536, 8544, 8551, 8566, 8616, 8673, 8699, 8740, 8763, 8764, 8765, 8766, 8767, 8768, 8769, 8770, 8771, 8772, 8773, 8774, 8822, 8836, 8837, 8838, 8839, 8842, 8843, 8855, 12519, 12535, 13275, 13776, 13777, 13784, 13795, 13813, 13822, 13823, 14289, 14290, 14362, 14363, 14757, 16836, 16837, 17301, 17649, 17669, 17671, 18693, 18694, 18695, 18957, 19289, 19379, 21073, 8010, 13754.

III. The Kansas City Southern Railway Company no par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificate. B–50292.

The Kansas City Southern Railway Company $100 par value preferred stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. B–29253, B–33919, B–36792, B–38444, B–38445, B–38602, B–38605, B–38606, B–39269, B–39893, B–40645, B–40855.

IV. (a) Southern Railway Company no par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 6314, 6815, 6816, 6817, 6818, 7261, 7927, 99952, 99953, 99954, 99955, 99956, 100705, 100712, 100713, 102214, 103388.

(b) Southern Railway Company old $100 par value common stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 59633, 70221, 79446.

(c) Southern Railway Company preferred stock evidenced by the certificates whose numbers are set forth below for the number of shares indicated:

10-share certificates. 27882, 29880, 29881, 26023, 26015.

[F. R. Doc. 51–6778; Filed, June 11, 1951; 9:05 a. m.]

[Return Order 972]

FRANCISCUS KOOYMAN

Having considered the claims set forth below and having issued a determination allowing the claims, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claims Nos., and Property

Franciscus Kooyman, Delft, The Netherlands, as Guardian of Jacobus Cornelis Kooyman, an incompetent; Claims Nos. 32400 and 32401; $419,377.31 in the Treasury of the United States.

Property described in Vesting Order No. 2619 (8 F. R. 17242, December 22, 1943), relating to United States Letters Patent Nos. 2,017,974 and 2,017,975.

All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Jacobus Cornelis Kooyman by virtue of an agreement dated June 24, 1932 (including all modifications thereof and supplements thereto, if any) by and between Max Giese, Fritz Hell, Jacobus Cornelis Kooyman and Chain Belt Company, which agreement related, among other things, to Patent No. 2,017,974, to the extent that such interests and rights were owned by Jacobus Cornelis Kooyman immediately prior to vesting by Vesting Order No. 2619.

All interests and rights created in the Attorney General by virtue of a license agreement entered into by the Attorney General and Chain Belt Company on June 3 and 7, 1948, relating to United States Letters Patent Nos. 2,017,974 and 2,017,975.

In connection with this return, claimant has furnished the Attorney General certain covenants contained in a letter executed August 16, 1950. A copy of these covenants is attached as Exhibit "A" to the determination filed herewith.[1]

This return shall not be deemed to include the rights of any licensees under the above patents and contracts and will be subject to the provisions of the Agreement between the Government of the United States of America and the Government of the Kingdom of the Netherlands regarding settlement for lend-lease, reciprocal aid, surplus property, military relief and claims of May 28, 1947.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 4, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51–6721; Filed, June 8, 1951; 8:52 a. m.]

PAUL HINDEMITH

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Paul Hindemith, 137 Alden Avenue, New Haven 15, Conn.; Claim No. 37428; property

[1] Filed as part of the original document.

to the extent owned by the claimant immediately prior to the vesting thereof by Vesting Order No. 2096 (8 F. R. 16461, December 7, 1943) relating to the musical compositions of Paul Hindemith, including royalties pertaining thereto in the amount of $24,858.16 in the Treasury of the United States.

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6779; Filed, June 11, 1951; 9:06 a. m.]

ROLAND LARAQUE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Roland Laraque, Paris, France, Claims Nos. 35791, 36454, and 41125; Property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942) relating to Patent Application Serial No. 262,509 (Now United States Letters Patent No. 2,378,712). Property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent Nos. 2,113,990 and 2,224,481.

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6780; Filed, June 11, 1951; 9:06 a. m.]

GEORGES SERVAN CANTACUZENE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Georges Servan Cantacuzene, Paris, France, Claim No. 33283; property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent No. 2,278,192, and property described in Vesting Order No. 293 (7 F. R. 9826 November 26, 1942) relating to Patent Application Serial No. 209,869 (now United States Letters Patent No. 2,313,191).

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6781; Filed, June 11, 1951; 9:06 a. m.]

ANDRE BLANC

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Andre Blanc, Salaise-S/Sanne, France, Claim No. 33282; property described in Vesting Order No. 667 (8 F. R. 4996, April 17, 1943) relating to United States Letters Patent No. 1,975,679.

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6782; Filed, June 11, 1951; 9:06 a. m.]

OSCAR HERBIN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Oscar Herbin, Le Fidelaire, France; Claim No. 32508; property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942) relating to Patent Application Serial No. 337,934 (now United States Letters Patent No. 2,312,714).

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6783; Filed, June 11, 1951; 9:07 a. m.]

LA RADIOTECHNIQUE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

La Radiotechnique, Paris, France, Claim No. 36635; property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent Nos. 1,930,563; 1,967,513; 2,031,736 and 2,051,104.

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-6784; Filed, June, 11, 1951; 9:07 a. m.]

ELEKTROKEMISK A/S

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant and Property

Elektrokemisk A/S, formerly known as Det Norske Aktieselskab for Elektrokemisk Industri, Oslo, Norway, Claim No 6961; property described in the following vesting orders: No. 294 (7 F. R. 9840, November 26, 1942), No. 666 (8 F. R. 5047, April 17, 1943), No. 672 (8 F. R. 5020, April 17, 1943), No. 677 (8 F. R. 7029, May 27, 1943), No. 814 (8 F. R. 5771, May 4, 1943), No. 2110 (8 F. R. 13854, October 9, 1943), No. 2309 (8 F. R. 1460, October 28, 1943), No. 3092 (9 F. R. 2706, March 10, 1944), relating to United States Letters Patent, United States Patent Applications and patent contract interests identified in Schedule A set forth below and made a part hereof, including cash in the Treasury of the United States in the amount of $706,775.75, subject, however, to a reservation in the sum of $679,315.23, which is sufficient to cover any and all "war production" royalties within the meaning of the Agreement dated February 28, 1948, between the United States and Norwegian Governments, and to a reservation in the sum of $6,820.77 to cover the claimant's possible royalty adjustment liability to the Department of the Air Force.

Executed at Washington, D. C., on June 5, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General
Director, Office of Alien Property.

SCHEDULE A

VESTED BY VESTING ORDER NO. 294

Patent Application Serial Nos.: 391,416 (now Patent No. 2,300,355), 409,742 (now Patent No. 2,337,279).

VESTED BY VESTING ORDER NO. 666

Patent Nos.: 1,956,323, 2,031,544.

VESTED BY VESTING ORDER NO. 672

Patent Nos.: 1,613,212, 1,639,007, 1,640,735, 1,657,948, 1,670,052, 1,679,284, 1, 686,802, 1,686,474, 1,691,505, 1,723,582, 1,735,936, 1,751,177, 1,757,695, 1,760,395, 1,774,674, 1,836,880, 1,928,854, 1,972,849, 1,983,544, 2,073,356, 2,100,927, 2,159,183, 2,169,563, 2,182,009, 2,193,434, 2,224,739, 2,226,747, 2,231,309.

VESTED BY VESTING ORDER NO. 677

Patent No.: 1,737,890.

VESTED BY VESTING ORDER NO. 814

Patent Application Serial Nos.: 436,585 (now Patent No. 2,330,576), 444,238 (now Patent No. 2,338,986).

Patent Contract Interests: The interest of Det Norske Aktieselskab for Elektrokemisk Industri, its successors and assigns, in and under an agreement entered into between the said Det Norske Aktieselskab for Elektrokemisk Industri and Aktieselskabet Meraker Smelteverk, its successors and assigns, on April 26, 1935 relating to United States and Canadian patents and patent applications owned by said Det Norske Aktieselskab for Elektrokemisk Industri, except insofar as such interests relate to Canadian patents and patent applications; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

The interest of Det Norske Aktieselskab for Elektrokemisk Industri, a corporation of Norway, its successors and assigns, in and under an agreement dated September 17, 1940, between Det Norske Aktieselskab for Elektrokemisk Industri and Aluminum Company of America, relating to United States Patents owned by Det Norske Aktieselskab for Elektrokemisk Industri, including all accrued royalties and other monies payable or held with respect to said interest and all damages for breach of said agreement, together with the right to sue therefor; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

VESTED BY VESTING ORDER NO. 2110

Patent Contract Interests:

(All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Det Norske Aktieselskab for Elektrokemisk Industri by virtue of an agreement dated March 19, 1924 (including all modifications thereof and supplements thereto (if any), by and between Det Norske Aktieselskab for Elektrokemisk Industri and United States Ferro Alloys Corporation, which agreement relates, among other things, to certain United States Letters Patent, including Patent No. 1,613,212; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Det Norske Aktieselskab for Elektrokemisk Industri by virtue of an agreement dated October 21, 1929 (including all modifications thereof and supplements thereto, if any), by and between Det Norske Aktieselskab for Elektrokemisk Industri and Midwest Carbide Corporation, which agreement relates, among other things, to United States Letters Patent No. 1,670,052; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Det Norske Aktieselskab for Elektrokemisk Industri by virtue of an agreement dated September 18, 1940 (including all modifications of and supplements to such agreement, including, but not by way of limitation, amendments dated April 1, 1942 and May 14, 1942) by and between Det Norske Aktieselskab for Elektrokemisk Industri and Reynolds Metals Company, which agreement and amendments relate, among other things, to certain United States Letters Patent, including Patent No. 1,613,212; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

All interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Det Norske Aktieselskab for Elektrokemisk Industri by virtue of an agreement dated March 27, 1942 (including all modifications thereof and supplements thereto, if any) by and between Det Norske Aktieselskab for Elektrokemisk Industri, Defense Plant Corporation and Olin Corporation, which agreement relates, among other things, to certain United States Letters Patent, including Patent No. 1,613,212; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediately prior to the vesting thereof.

VESTED BY VESTING ORDER NO. 2309

Patent Contract Interest:

All interests and rights (including all royalties and other monies payable or held with respect to said interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Det Norske Aktieselskab for Elektrokemisk Industri by virtue of an agreement dated June 25, 1940 by and between the said Det Norske Aktieselskab for Elektrokemisk Industri and Torleiv Skajaa and Western Precipitation Corporation (including all modifications thereof and supplements thereto, including, but without limitation, the supplemental agreement between the same parties dated July 2, 1940) relating, among other things, to United States Letters Patent No. 2,069,483; to the extent owned by Det Norske Aktieselskab for Elektrokemisk Industri immediatley prior to the vesting thereof.

VESTED BY VESTING ORDER NO. 3092

Patent Application Serial No.:
483,475 (Now Patent No. 2,339,230).

[F. R. Doc. 51-6785; Filed, June 11, 1951; 9:07 a. m.]